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Carroll's appeal rejected

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MIDDLETOWN - Liz Carroll's appeal of her conviction for the murder of her 3-year-old foster son, Marcus Fiesel, was denied Friday by the 12th District Court of Appeals.

While the appeals court based in Butler County vacated the punishment for the lesser charge of involuntary manslaughter that Carroll was convicted of by a jury in February, that won't affect the life sentence imposed by Judge Robert P. Ringland of Clermont County Common Pleas Court.

Carroll, 31, will have to remain in the Ohio Reformatory for Women in Marysville for 54 years before she's eligible for parole.

"I expected that (Ringland's) judgment would be affirmed," said Clermont County Prosecutor Don White. "Hopefully, this puts an end to it."

The appeals court ruled that the double jeopardy clauses of the Ohio and U.S. constitutions bar punishment for both murder and manslaughter. While the appeals court ordered that Carroll's manslaughter conviction be merged with the one for murder, her prison time won't change because Ringland had recognized the charges were similar and ordered her to serve the separate sentences at the same time.

Ringland, who is running for an open seat on the 12th District Court of Appeals in the November 2008 election, declined to discuss the ruling by the Middletown court.

The trial judge was correct in ruling Carroll could be found guilty of felonious assault, kidnapping and three counts of child endangering, the appeals court said.

Her appellate attorney, Elizabeth Agar, had claimed the judge erred in allowing into evidence Carroll's testimony before a Hamilton County grand jury.

The appeals court said Ringland made the right decision in allowing the testimony.

Carroll admitted to the grand jury that Marcus was alive when she and her husband, David Carroll Jr., left the child in a closet - bound in a blanket with tape - at their Union Township home in August 2006.

She said they found Marcus dead when they returned from a weekend trip to Grant County, Ky.

After his wife's trial, David Carroll, 30, pleaded guilty to murder and was sentenced to life in prison. He will be eligible for parole in 16 years.

In Liz Carroll's case, the judge also made the right call in rejecting defense attorney Greg Cohen's request that her trial be held somewhere other than Clermont County, the appeals court said. Nothing in the trial record supported the claim that Carroll didn't get a fair trial because jurors were influenced by media scrutiny of the case, the appeals court said.

Ringland was deemed correct in denying Carroll's request for a new trial based on a claim of juror misconduct related to a post-trial interview with Enquirer sports columnist Paul Daugherty.

Carroll's claim that her convictions on kidnapping and felonious assault charges weren't supported by evidence was also rejected.

"A reasonable juror could infer from the evidence presented that (Carroll), who is a mother of three, and a certified foster caregiver, knew that leaving a young child alone for an extended period of time would likely result in the child suffering serious injury," Judge H.J. Bressler wrote in the opinion for the appeals court.

Also rejected was Carroll's claim that the jury should have been instructed by Ringland that Amy Baker, who lived with the Carrolls and was granted immunity to testify against them, was an accomplice in the crimes.

"Amy Baker was neither indicted nor a co-defendant, did not enter into a plea agreement to a lesser charge, and did not admit to taking part in any crime for which (Liz Carroll) has been indicted in Clermont County," the appeals court said.

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