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Csaba Fenyvesi
University of Pécs (Hungary)
https://orcid.org/0000-0002-5921-7875

Vanessza Fábián
University of Pécs (Hungary)
https://orcid.org/0009-0003-5233-6390

Criminalistic and procedural lessons of a criminal case with the risk of miscarriage of justice

Abstract: This article explores the criminalistic and procedural lessons of a complex Hungarian criminal case, where a young man was accused of attempted murder based on a largely unilateral investigation. Despite a year of pretrial detention and serious charges, the court ultimately acquitted the defendant due to a lack of evidence and inconsistencies in the victim's testimony. The case serves as a cautionary example of how investigative errors, unreliable witness accounts, and premature conclusions can lead to a miscarriage of justice. Emphasizing the role of forensic science, objective evidence evaluation, and the need for critical judicial oversight, the authors argue for a deeper, multidisciplinary approach to criminal proceedings. The decision reflects the importance of the in dubio pro reo principle and reinforces that safeguarding defendants' rights is essential to prevent wrongful convictions in modern legal systems.

Keywords: suspicion, indictment, attempted murder, witness testimony, expert examination, acquittal, miscarriage of justice

Introduction

In recent years, the issue of wrongful convictions has received growing attention in both academic and professional discussions. Although the principle of *in dubio pro reo*—which holds that doubt must benefit the accused—remains a fundamental element of modern criminal procedure,

its practical implementation often reveals significant weaknesses in the protection of individual rights. The Hungarian criminal case of Gergely O. provides a striking example of how investigative assumptions can influence judicial proceedings. The defendant was charged with attempted murder based on a single version of events and circumstantial evidence. Despite the lack of direct evidence, he remained in pre-trial detention for over a year before ultimately being acquitted. This article aims to examine the evidentiary and procedural aspects of the case, with particular focus on the role of expert opinions, contradictory witness testimonies, and early investigative shortcomings. Through this analysis, the study highlights the importance of a multidisciplinary approach in criminal adjudication and draws attention to the potential risks of disregarding forensic aspects at the outset of criminal investigations.

Preliminary report

The police report was made on Monday morning, April 26, 2021, at 8:00 a.m. by Ernő L., whose daughter was already in a medically induced coma in the burn unit of the Pécs (city) clinic. At his ex-wife's house in Bogyiszló (village), he found no traces of a fire at the boiler, even though his 28-year-old daughter, Petra L., who owned the house, had told him that she sustained her burns while lighting the boiler.

I. The investigation

Data of the crime scene investigation

The police authority conducted a crime scene investigation in a case involving an unknown perpetrator on suspicion of endangerment committed in the course of official duties, on the day of the report, from 10:50 a.m. to 6:08 p.m. The final report documented the following relevant facts. No signs of burning, soot, or ash were found in the boiler room. A piece of a pink robe with burnt edges was discovered in a bucket. Other burn marks, black discoloration, were only found on the terrace, above the bathtub on the bathroom wall, and on a burgundy towel. On the terrace floor, a 40 cm diameter burn mark contained pink fabric scraps and a shoe print fragment. On the bed in the bedroom, a drab-colored sheet with gasoline odor was observed, stained in an area of 20-30 cm. In the shed, two 26-liter white plastic canisters with black and green caps were found, with a liquid smelling of fuel at the bottom. Gasoline-scented

traces were detected on the door of the garden shed and on the trampled grass in front of it. No liquid remains (drops, puddles, stains) were found on the terrace or the house floor. From the household trash, a burnt, long-sleeved, purple women's top, a pair of blue-white-black socks, a lighter from the terrace railing, cigarette butts, a Hell energy drink can, and a Heineken beer can were confiscated.

The essence of the initial key witness testimonies

Meanwhile, the investigating authorities collected data. They located Petra L.'s closest friend at the time, Laura Sz., who gave her first witness statement on Monday, April 26, 2021, at 4:16 p.m.: Her friend, Petra L., called her on the morning of Sunday, April 25, 2021, from her own phone. She said, "Come over immediately, because something is wrong, and I'll send Gergő to get you." The man arrived a few minutes later with his car and took her to her friend's house. The injured Petra was sitting on the bed when they entered the bedroom. She did not see any anger or frustration in her, nor did Petra complain or say anything bad about Gergő; she was not angry with him. She told her the boiler story and nothing else. Laura asked Petra why she hadn't gone to the hospital with Gergő or called an ambulance, to which Petra replied that she "didn't want to go with Gergő." During their conversation, Petra did not once mention any foul play or deliberate act by another person. In the end, "Petra gave me the keys to her apartment while in the hospital and asked me not to give them to anyone." They did not talk about whether Gergő had stayed over the night before. Laura assumed the man had been there in the morning because she knew about their secret relationship. She didn't see any canisters in the yard or smell gasoline or diesel fuel in the garden. She also didn't smell anything like that in O. Gergő's car.

On April 27 (Tuesday) between 12:23 p.m. and 12:55 p.m., the police questioned Alexandra Sz., a 22-year-old cashier at the Bogyiszló gas station, who recalled that Gergely O. bought 5 liters of gasoline for a few thousand forints in a red canister he brought with him on the morning of Sunday, April 25, before 10 a.m. She could not provide security footage of this purchase, as she was aware that the daily recordings are erased at midnight each day.

The defendant's testimonies

Following the gas station attendant's testimony, the investigation authorities visited 25-year-old Gergely O., a resident of Budapest, living in a domestic partnership and father to a 4-year-old girl. He was a trained

welder/butcher and was about to start working in the penitentiary system, preparing for his final exam. He was scheduled to begin his job as a prison guard the following Monday, May 3. Gergely O. appeared cooperative when contacted by the police. When questioned about how Petra L. sustained her burn injuries, he claimed she was trying to light the boiler, and the flames flared up during the process. He voluntarily submitted to a polygraph test at 3:50 p.m. that same day, which indicated that his statements were untrue. This result was communicated to Gergely O. by the investigators at 9:31 p.m.

According to the suspicion, Gergely O. had allegedly poured gasoline on Petra L. and set her on fire. From April 27, 2021, when Gergely, who had no prior criminal record, was officially suspected of causing life-threatening bodily harm, later upgraded to attempted murder, until the end of the proceedings, he consistently gave the following accounts (which he also wrote multiple times in his personal statements). He explained that his relationship with Petra L., a divorced mother of an 8-year-old daughter who worked in a restaurant kitchen, was their second secret affair. About two years earlier, they had already been involved in an emotional and physical relationship, despite both being in committed partnerships at the time. This affair was discovered, leading to Petra's divorce from her husband and the temporary separation of Gergely from his domestic partner, who moved in with her mother. After a ten-month break, they accidentally met again in their village in November 2020 and rekindled their relationship. By this time, Gergely's forgiving partner had returned, so they once again had to keep their affair secret. On Saturday, April 24, 2021, Gergely told his family (his parents and partner) that he was going to work and would only return the next morning. He entered Petra's house by retrieving the key from the usual spot—the electric meter box. Throughout the day, they exchanged continuous messages, and Gergely learned that Petra wouldn't arrive home from her hospitality job until after 10 p.m. As requested by Petra, Gergely bought cigarettes for her and waited at the house. They celebrated Petra's promotion at work with champagne, and after an intimate encounter, they fell asleep.

The next morning, upon waking, Petra once again reproached Gergely, asking why he was leaving and when he would start a life with her. Gergely drove to a tobacco shop in Tolna, a town 6 kilometers away, in his Opel Astra to buy cigarettes. During this time, Petra called him twice, sounding agitated and demanding his return. He agreed to come back, although he might not have done so if Petra hadn't insisted, saying: "You left your stuff here, come get it." The second call was similarly urgent: "She called again, freaking out about where I was, questioning me." "When he entered the main gate, he saw a white plastic canister lying on the ground

and smelled something odd but didn't pay much attention to it. He walked towards Petra, who was sitting on the open terrace of the house, wearing a light pink robe. Gergely stopped about two meters in front of her and tried to calm her down with words. While they were talking, Petra was sitting in the chair, crossing her right leg over her left, turning her head left and slightly forward, and using a lighter in her right hand to light the cigarette in her left hand. Almost immediately after the flame appeared, the left side of her delicate robe caught fire. "Gergő, Gergő, I'm on fire!" she cried out in surprise, calling for help. She jumped up and ran to the bathroom to extinguish the burning clothes with water. Gergely followed her and helped put out the fire. After successfully extinguishing the flames, he escorted her to the bedroom and sat her down on the bed, changing her into dry clothes. He suggested calling a doctor, but Petra refused, as well as involving her father or brother. Finally, she called her friend Laura Sz. on her own phone and said, "Something's wrong, I'm sending Gergő to pick you up."

Petra asked Gergely not to reveal the truth because her father forbade her from smoking. She asked him to claim that the accident happened while lighting the boiler. Gergely agreed to this, which is why he gave this version of events when first questioned. Petra also told this story to her best friend when she arrived a few minutes later, accompanied by Gergely. The two women agreed that Laura would take Petra, who had suffered burns on her left side, arm, and neck, to the hospital in Szekszárd-city. Gergely drove Laura back to her house, and she returned to Petra's place with her own car. They then headed to the hospital together, while Gergely returned to his parents' house in the village. On Sunday afternoon, Gergely sent several worried text messages to Petra, but she did not respond. Unaware of the situation, he spent Monday, April 26, preparing for his exam in Budapest. On Tuesday, April 27, he answered a phone call from the police. He maintained that it was a simple accident where clothing caught fire and that no crime had been committed at the scene, which he repeated during his interrogation in Tolna-country.

After his testimony, the police took him into custody (some of his clothes and footwear were seized during a house search). On Friday, April 30, 2021, the Pécs District Court ordered his detention, following a motion by the Baranya County Chief Prosecutor's Office, on the grounds of well-founded suspicion of life-threatening bodily harm, the risk of fleeing, and the potential destruction of evidence due to the severity of the crime.

Modification of the suspicion

On May 17, 2021, the investigative authority modified the suspicion against Gergely O., who remained in detention, to attempted murder with premeditation and particular cruelty. After this, he was only interrogated once more, during the review of the investigation files (at the conclusion of the investigation) on April 28, 2022.

The acquired expert opinions

During the investigation conducted by the Tolna County Police Headquarters, a disaster management (material remain) expert analysis revealed that diesel fuel, not gasoline, was found on Petra L.'s robe, socks, clothes, and the bedding in the bedroom. No gasoline was detected in any of the materials. Experts also stated that the two white containers (20 and 25 liters respectively) found at the scene contained small amounts of diesel fuel (about 5 liters in one of them). The fire investigation expert concluded that combustion could not have occurred "immediately" within a few seconds with diesel-soaked clothing. The fire's ignition point was identified as being on the terrace of the victim's house. The medical expert report stated that the burns and injuries (which resulted in permanent damage) suffered by the victim could have occurred as described by the defendant. No other explanation would account for how both the right side of the victim's face and her left upper arm were burned at the same time. (Overall, she suffered second- and third-degree burns on approximately 35% of her body.) The forensic examination of traces did not find any evidence from Gergely O. on the white containers seized from the shed at the family home. No fingerprints or palm prints were found on them. The footprint fragments recorded at the scene did not match the "Sport" brand footwear seized from the defendant but could have come from a "Nike" or "Budmil" brand shoe. The genetic (DNA) analysis did not find any material evidence from Gergely O. on the seized containers. The forensic analysis of the defendant's confiscated phone did not reveal any significant or relevant data (photos, messages), which could be read among other investigative evidence below. The psychiatric expert report found no mental impairment that would exclude Gergely O. from being held criminally responsible. The psychological examination of both main parties (among many other positive and negative characteristics) did not identify signs of particular cruelty in the defendant, but it did reveal impulsivity, temper, and aggressive tendencies. It also noted that Gergely O. had an emotional attachment to his girlfriend. In the case of Petra L., the report suggested that she might be less sensitive to moral issues at the

time and exhibited more theatrical behavior. She also showed a fear of losing existing affectionate relationships. Her thoughts were described as highly subjective in nature, and she displayed some sensitive-paranoid tendencies. Her behavior was determined by the situation. Some neurotic background related to sexuality was also uncovered. Experts found traces of Ecstasy in the victim's body, specifically in material samples taken at the burn unit of the Pécs hospital, unrelated to her treatment. The polygraph test conducted on Petra L. on March 28, 2022, at the request of the defense concluded that: "it cannot be determined whether the answers given by the examined person to the relevant questions were honest or deceptive."

The content of the further (later) witness testimonies

The informant, Ernő L., stated on Monday, April 26, at 17:36 that he noticed his son, younger Ernő L., and Laura Sz. had already cleaned the house by the time he arrived at around 11:50 a.m. on Sunday. He found a white canister in the shed that did not belong to him. The shed door had been doused with gasoline, as he recognized the smell. In the outbuilding, he found no signs of burning, even though his daughter had suggested a boiler-related accident. This raised suspicion, and the next morning, he called the police to the house.

The victim's brother, younger Ernő L., who was interrogated on April 26 starting at 19:18, found one of the white plastic canisters in the shed during Sunday morning's cleaning and another outside the shed. The latter was missing its cap, which he found about 2 meters away and reattached. He placed this canister upright in the shed, estimating that it contained about 5 liters of gasoline. He saw gasoline stains on the metal door of the shed and on the grass in front of it, and he also smelled gasoline. He smelled gasoline inside the house too and noticed broken dishes and glass. He and Laura Sz. cleaned these up. They placed the burnt clothes and the gasoline-smelling bedsheets in the household trash bin.

The victim's neighbor, H. Anita, stated that there was no loud noise on Saturday, April 24, 2021. No one asked her for help, and no one came over to her on that Saturday or Sunday, April 25. In contrast, she recalled hearing a party and loud music on the night of Friday, April 23.

O. Ferenc (who was Petra L.'s ex-husband and the brother of Gergely's partner) stated in his investigative testimony the following about L. Petra: "I saw that she was not emotionally stable recently. By that, I mean that she was in a bad mood and had been neglecting herself." He also mentioned that his ex-wife "was obsessed with beauty. She would pass by a mirror and always look into it; beauty was very important to her."

Dr. V. Tibor, a doctor at the Szekszárd hospital, testified that Petra L. spoke about lighting the boiler and specifically mentioned diesel fuel. Dr. B. Roger, a doctor in Pécs, also testified that Petra L. spoke about lighting the boiler. Dániel K., the paramedic who was with her during the 40-minute transfer between Szekszárd and Pécs city, stated that the burn victim spoke about a failed attempt to light the boiler. "She tried to light the fire and used diesel fuel when the flames shot out of the firebox." He testified that "she definitely mentioned diesel fuel" and that "she behaved very calmly and quietly."

B. Jánosné, the defendant's neighbor, testified in the investigation that Gergely had mowed the lawn for her on Friday afternoon, April 23, 2021, using a gasoline-powered lawnmower.

Zoltán O., a senior police officer (and a weekend violist in an orchestra), the defendant's father, testified that his son was not home on the night of April 24, 2021. His son had told him he was going to work, but he wasn't there. On the 27th, his son admitted to his father that he had spent the night with Petra L., Zoltán O. noticed nothing strange or unusual in his son's behavior between April 25 and 27, 2021, although they saw each other every day.

Zoltánné O., a social worker and the defendant's mother, also testified that her son had not spent the night of April 24, 2021, at their home. Gergely O. told her he was going to work, but he was actually at Petra's house, which he only revealed afterward. She did not notice any suspicious behavior in her son on Sunday, April 25, 2021.

L. Katalin, the victim's cousin, said that Petra did not want her father to know about her relationship with Gergely O. and kept it a secret. L. Éva, another relative of the victim, gave a similar statement.

Petra L. woke up from deep sedation in mid-June 2021. She was interrogated by investigators on July 16 in a hospital ward at the 400-bed hospital in Pécs, classified as a victim requiring special treatment. She was questioned without a lawyer present, as she did not consent to it, given her special victim status. After being informed of the legal consequences of perjury and false accusations, and acknowledging them, she stated in her video-recorded testimony that Gergely O. had not been with her on the night of April 24 and that she had no secret relationship with him. She also stated that her burns were caused by an accident at the boiler. After being discharged from the hospital, she was again interrogated by the investigative authority at her own home, without notifying her lawyer (as she was still treated as a victim requiring special treatment due to hearing impairment). During this interrogation, she was informed that her body contained three types of drugs and two types of tranquilizers. Following this information, on August 17, 2021, she stated that Gergely O. had

poured gasoline on her and set her on fire. She also claimed that Gergely O. had put the drugs in her drink. Later, she told a psychologist that she had taken Ecstasy of her own volition.

Other investigative evidence

According to the mobile service provider, Petra L. called O. Gergő's mobile number, which was near the Tolna transmitter, at 07:14:31 on 25.04.2021. They talked for 155 seconds. The second call came at 07:20:07, also from L. Petra, and lasted 83 seconds.

The investigating authority compiled the seven instances of Messenger messages exchanged between Petra L. and O. Gergő on the afternoon and evening of 24.04.2021 (between 15:17 and 21:49), which revealed that the man was waiting at the victim's home on Saturday night. At her request, he bought her favorite cigarettes.

SMS messages were also uncovered between O. Gergő and Petra L. with the help of an IT expert, after the victim received medical treatment in Szekszárd and Pécs. The messages sent on Sunday afternoon, 25 April, and early Monday morning, 26 April, from O. Gergő's phone contained the following verbatim: On April 25 at 10:26: "I'll kill myself, my one and only little love. You are and will always be the most beautiful woman in the world." 15:13: "I'm going crazy that I don't know anything about you, Petra, I'm going crazy." 16:01: "My love, you are my everything, Petra." 17:24: "My dear only little love, you will wake up for me. Don't. Write just a sign, send something or send me to hell, but something, I can't, I can't process it. You are my sunshine, my one and only little love, I regret everything, and if you don't want to, you will still be with me because I won't live without you, I'm telling you now I'm done. This day is no, no." 18:09: "I know I spoke wrongly, my life's only diamond, and I did everything wrong, but I will change everything, I want to take care of you, protect you, guard you, I want to bring you the stars from the sky, I swear to Almighty God, my one and only treasure." (and a smiley face) "Forgive me for everything bad in life and allow me to live with you, please my one and only queen, because that's what you are to me, and I'll carry you on the palm of my hand, I swear to you on everything holy, my one and only little kitty." 20:30: "How did you do this to yourself, Petra, I can't understand, my God. How could you do this, what did you do." 20:43: "What were you trying to light? I can't understand, my God, and I don't even know what's happening with you, I don't believe it, my God." On April 26 at 4:49: "Hi my little heart (emoji), I can't understand what's going on with you, I swear (emoji), how could you be so irresponsible,

what did you do (emoji), I'm leaving for Pest now, exams are coming, I'm praying for you."

The authority extracted from the defendant's phone that Petra once threatened O. Gergő in a message with her own suicide if he did not break up with his partner and move in with her. A photo of a cut wrist sent to O. Gergő was also found on Petra's phone, along with a text message indicating a suicide attempt.

Petra's mother, Zs. Katalin (the house owner), was subject to an international arrest warrant for an 8-year prison sentence for drug trafficking as part of a criminal organization. She was apprehended during the investigation and transferred to a prison institution.

The investigation revealed that there was no receipt for gasoline purchased on the morning of April 25 at the Bogyiszló gas station. No record of a five-liter purchase (a similar amount) was found in the register between 6 and 9 a.m. on April 25, which could have been linked to the suspect.

During a search of the defendant's house, the red gas canister, which O. Gergő claimed to have used to buy gasoline on Friday, April 23, was not confiscated. No diesel fuel was found during the search.

The defendant used a gasoline-powered vehicle at the time of the incident: a 21-year-old silver gasoline Opel Astra. According to a surveillance video obtained later in the investigation, this car was seen at the Bogyiszló gas station on Friday, April 23, between 15:55 and 15:57. However, it was not visible at the gas station on the morning of April 25.

Petra's vehicle, a Peugeot 607 diesel, was used on April 24–25, 2021, which she had borrowed from her father weeks before.

The defense attorney, after the investigating authority released the phone, compiled that Petra called O. Gergő's mobile number via Messenger on 18.06.2021 at 17:47, after waking up from a coma in the hospital. As his phone was turned off, she sent a message saying, "SziaGergoommm." She also sent a message on 01.07.2021 saying, "I'm fine," with a smile emoji attached.

Petra communicated with her friend after waking up in the hospital. Specifically, on July 1, 2021, at 17:27, she called Laura Sz. Then, on July 3, she asked, quoting verbatim: "What's up with Worm, do you know?" Laura Sz. replied, "He's been in custody since about the time you were in the hospital." Petra's reaction to this was: "That's cool, but why? He wasn't even there, I told the police too." Later, Petra also wrote, "I swear nothing happened, but everyone believes what they want..."

Termination of the detention

Following the defendant's and his defense attorney's continuous appeals, exhausting all legal remedies (upon the imposition of detention and at all extensions), the Pécs Regional Court terminated the defendant's pretrial detention on May 10, 2022, and placed him under judicial supervision, noting his exemplary conduct in the detention facility

II. Indictment

On June 1, 2022, the prosecution brought charges against Gergely O. for the attempted murder committed with premeditated malice and extraordinary cruelty. According to the indictment, on the morning of April 25, 2021, he argued with Petra L., who had announced her intention to break up. After she left, he obtained gasoline from an unknown source, and unable to cope with the end of the relationship, he intended to kill the woman. He returned to the house, where Petra L. was staying on the partially open terrace, and poured gasoline from the can he had brought with him over her, then ignited her clothing with a lighter. The defendant also attempted to prevent the extinguishing of the fire. He caused Petra L. to suffer burns that resulted in a healing period of 4 to 6 months and led to hearing damage. After the fire was extinguished, the victim asked Gergely O. to notify her friend, Laura Sz., and to take her to the house in his car, which the man complied with. Laura Sz. transported her friend, who had sustained burn injuries, to the hospital in Szekszárd. The list of evidence supporting the charges included all witness testimonies and expert opinions, the defendant's statements, inspection protocols and photographic appendices, medical and hospital records, as well as evidence lists, police notes, and reports. In case of confession, the recommended sentence was 10 years in prison.

III. The first instance trial and the court's verdict

At the preparatory hearing before the Szekszárd Tribunal Court on October 17, 2022, and the first court hearing on November 14, 2022, the accused recounted the events in the same manner as during their initial interrogation a year and a half earlier. They demonstrated with their movements how the events occurred on the victim's terrace: the sitting, the crossing of the legs, lighting a cigarette with a lighter, and how the robe caught fire. On the day of the trial, the court lifted the defendant's

criminal supervision. After that, they found work as a butcher and attended the hearings from their job.

During her testimony on March 6, 2023, Petra L. was unable to describe the circumstances of the gasoline pouring, the object used, its exact handling, the use of the lighter, the lack of defense, or the extinguishing circumstances. She could not name what the defendant had poured on her, even though she had independently mentioned that she could distinguish between gasoline and diesel. She literally answered, "I have no idea" when the judge asked about the substance. The court also questioned her about two phone calls made to Gergely O. on the morning of April 25, which she had not mentioned to any witnesses or authorities. Petra L. denied them but, after being shown the digital data, stated that she did not remember them. She also denied previous statements indicating suicidal tendencies when asked by the court. When shown a photo of a knife, she recognized her hand from the tattoo. She claimed that Gergely O. could have staged it because "he wanted to frame me." Her defense noted that the photo was found by the investigating authorities in IT data, and the defendant had no involvement in discovering this evidence. She also denied making threats involving a tree-hanging gesture, despite witness testimony, adding later in the trial that "I sometimes speak nonsense." The court presented Petra L. with her text message from Friday, April 23, 2021, sent at 21:13 to Gergely O., which read, "Let's say goodbye forever. Why was I even born? All my dreams are shattered." The witness responded, "I don't know." After initially denying it on August 17, 2021, at the March 6, 2023 hearing, the victim admitted that Gergely O. had spent the night of April 24, 2021, with her in intimate circumstances. The court also presented her with a message from Gergely O. from April 12, 2021, in which he wrote, "I love you with all my heart." The witness said she did not remember this either. When asked by the judge why Gergely O. had freely entered the premises with a known key, the witness could not answer. "I don't remember," she said, and couldn't recall whether she worked that day. For the first time in court, she claimed that she broke a plate while defending herself against Gergely O. Her defense noted that she had never mentioned this to anyone before—not during either of her police interrogations, nor to doctors, nor to her best friend. At the trial, the victim also stated that two weeks before the incident, she received the drugs found in her system from a person completely unrelated to the defendant. She obtained them at a party and knowingly took them, aware that she was consuming a mind-altering substance. (She became a suspect because of this and agreed to attend a diversion program.)

During the trial, the court also inquired about the fear she expressed in her later police interrogation, asking what she could have been afraid

of when she already knew, from her messages with Laura Sz., that the defendant was in custody. The victim couldn't provide a substantial answer. At the hearing, Petra L. claimed to have had good relations with her neighbors, yet she didn't notify them, even though she was left alone twice. When asked by the judge why she didn't do so, she responded, "I don't know."

The victim's friend, Laura Sz., reiterated what she had said during the investigation before the court. She added that she feels "betrayed" and that her friendship with Petra L. ended after the incident, and they no longer communicate.

At the January 24, 2023 hearing, witness Anita H., the victim's neighbor, testified that there was no noise on Saturday, April 24, 2021, and no one asked for her help or came over that Saturday or on Sunday, the 25th. In contrast, she heard a party and loud music from Petra L.'s house on the night of the 23rd.

Dr. Tibor V., a doctor from Szekszárd, added to his investigative testimony at the January 27, 2023 hearing in response to the judge's questions: "We didn't suspect anything for even a second; nothing was unusual. Petra L. calmly recounted the events." He also added, "She could have said something else if anything else had happened. She was safe," and "She was fully conscious." "There was no anxiety, no humiliating situation, no bad feelings." On the same day, paramedic Dénes K. also added to his previous investigative testimony: "The journey from Szekszárd to Pécs took 40-45 minutes, and Petra L. behaved very calmly."

Dr. Roger B., a doctor from Pécs, also testified on March 7, 2023, that he saw no signs of anger, sadness, agitation, or complaints from Petra L. He also mentioned that she hadn't received any drugs or ecstasy during her treatment.

At the January 24, 2023 hearing, Petra L.'s father, Ernő L. Sr., testified that he knew nothing about either of his daughter's secret relationships with Gergely O. She had not told him about either one. He stated that if he had known, he "would have ended it quickly." He also mentioned that his daughter had another secret relationship years ago, with someone named Péter. He indeed disapproved of his daughter smoking.

Ernő L. Jr., at the same January 24 hearing, confirmed that he had greeted the defendant with the phrase "Hello, gypsy" when the defendant exited the courtroom hallway. In response to a question from the defense, he added, "I can say whatever I want." He also said that the canister found in the victim's house on Sunday, April 25, 2021, might have come from his supplies, as he had many of them.

On January 24, 2023, Alexandra Sz., a gas station employee, admitted that the defendant was not at the gas station where she worked on Sunday.

After reviewing the camera footage, they saw that he purchased gasoline in a canister on Friday, the 23rd, between 15:55 and 15:57, in a 5-liter or a maximum 10-liter canister. She had provided incorrect information to the police during her first interrogation on Tuesday, April 27, 2021, for which she apologized at the trial. She cited her heavy workload and the fact that the gas station employees had "discussed" what they would say to the inquiring policewoman.

At the hearing on January 27, 2023, O. Roland, a relative of the defendant, and his wife, D. Noémi, testified that in February-March 2021, the secretly meeting couple, Gergő and Petra, often argued. Gergő also had scratch marks on his neck. According to O. Roland, there was also an instance when L. Petra declared that she would hang herself from a tree (which she pointed to) if Gergő did not leave his partner.

Gyöngyi O., the former partner of the defendant, testified on March 7, 2023, that she had known Petra L. (also as her sister-in-law) for many years. After initial positive impressions, Petra began living a more erratic lifestyle, regularly drinking hard alcohol. She also smoked marijuana, which she herself told Gyöngyi O. Gergő purchased gasoline in a red 5-liter canister on the Friday before the event, using it to fill the lawnmower and mow the lawn at their house. On the night of April 24/25, 2021, Gergő was not home, claiming he had to work. The next day, Gyöngyi O. voluntarily washed his clothes. She only learned two or three days later from her father-in-law that Gergő had spent the night with Petra.

Psychologist expert Márk K. testified on March 7, 2023, that both Petra L. and the defendant had a dynamic relationship, with strong attachment. Petra exhibited an inability to detach from the defendant despite their conflicts. Márk K. observed theatrical behavior, self-pitying, and complaining attitudes in Petra. She also admitted to him that she had used ecstasy. In response to the judge's questions, Márk K. explained that ecstasy can lead to several hours of euphoria, a sense of happiness, and love for everyone, followed by a depressive phase. The feeling can flip. It is unlikely that the drug was slipped into a drink because of its bad taste, which everyone notices. It could only be taken voluntarily. The expert witness also observed responsibility-avoidant behavior in Petra, who came from an authoritarian family.

Fire investigation expert Csaba Ny. testified on March 7, 2023, that no traces of diesel were found on the terrace by the police. He could not determine exactly where the fire originated and could not specify the amount of diesel that had spilled on the victim. He found it plausible that the ignition could have been caused by either the victim or the defendant using a lighter. He accepted a 2-3 second timeframe for the bathrobe to

catch fire. However, he could not determine who had held the lighter, as it was beyond his area of expertise.

Forensic psychiatrist László F. considered the victim's partial memory loss or inability to recall to be credible only if it were due to some form of mental deficiency.

Forensic experts Antal K. and Péter S. had already stated in their written opinion that the incident could have occurred as described by the defendant. On March 7, 2023, they reaffirmed this, also confirming that the victim could not have slapped at the fire with their palm, as there were no injuries to their hand. The doctors who carefully examined the victim did not record any such changes. The experts were unable to comment on the fire's exact ignition mechanism. Antal K. also testified on the same day that the presence of ecstasy in the victim's system suggested consumption within 24 hours.

The testimonies of other witnesses, who were interviewed during the investigation, were read aloud by the court as part of the evidence. After the closing arguments, the court delivered its verdict, acquitting the defendant of the charges due to lack of evidence.

The key facts and conclusions from the justification of the verdict by the Szekszárd District Court, handed down on May 8, 2023, can be summarized as follows:

a) From the data of the on-site inspection, traces, and material remains, it is clear that only the half-open terrace had burn marks indicating ignition. There were no flammable material remains on the ground, soil, or floor tiles, meaning no pouring of fuel occurred there. The victim did not come into contact with the diesel remain in her clothing there.
b) The defendant consistently recounted the events from the time of his initial accusation, unlike the victim, whose testimony contained numerous contradictions. The victim's changing statements, not backed by reasonable explanations, conflicted with other evidence, particularly electronic data, expert opinions, and witness testimonies, making them unreliable, untrustworthy, inconsistent, and contradictory.
c) The crime allegedly committed against the victim could not be established with judicial certainty, and the defendant's actions, which were the subject of the charges, were also not proven beyond reasonable doubt

IV. The decision of the appellate court

Following a comprehensive appeal by the Chief Prosecutor's Office, the Pécs Appeals Prosecutor's Office filed a petition for evidence in its reasoning. It requested the hearing of the victim.

On October 17, 2023, the panel of the Pécs Court of Appeals upheld the first instance court's decision with final effect.[1] In its reasoning, it pointed out that:

a) The first instance court conducted the evidentiary proceedings in accordance with the provisions of procedural law. It collected, examined, and evaluated the evidence that emerged in the case in a very detailed and careful manner, in accordance with the rules of logic. In the reasoning of its judgment, it convincingly and at a high standard accounted for its findings of fact and the reasons for rejecting the victim's testimony. Consequently, it fulfilled its obligation to provide reasoning to a significant extent.
b) The first instance court's judgment is not unresolved, as it itself noted the uncertainties and inconsistencies in the victim's statements, which it adequately addressed in the reasoning of its judgment. The factual basis was established, thus it rejected the proposed evidence.
c) According to the fundamental provision set out in Section 7 (4) of the Code of Criminal Procedure, a fact that has not been proven beyond reasonable doubt cannot be assessed to the detriment of the accused. Judicial practice considers a finding of fact to be proven beyond reasonable doubt if no reasonable doubt can be expressed against it. In the opinion of the second instance court, this is far from the case in the present instance, which necessarily had to lead to the acquittal of the accused.

V. Forensic and procedural law lessons that can be drawn from the proceedings

1) The general condition required for arrest, namely the reasonable suspicion of a crime, must be examined deeply and comprehensively. It is incorrect, or we could say that the position has become outdated, to claim that there is a legal barrier preventing the court (investigating judge) from evaluating evidence in cases involving the most severe coercive measures. This cannot be solely delegated to the adjudicating

[1] Szekszárd Court, Case No. 20.B.120/2022/44-II; Pécs Court of Appeal, Case No. III.Bf.50/2023/6/II.

judges, as the court may arrive at a well-founded conclusion regarding the existence and strength of suspicion based on the evidence. A PhD dissertation has already been written on this topic by a researcher involved in practice, and we agree with its conclusions.[2] In this case as well, the correct evaluation of evidence (for example, the initial data from the scene of the incident, and later the expert opinions) should have been guiding in ordering coercive measures, especially in prolongations.

2) Knowledge based on factual sciences can significantly (and at times decisively) assist legal practitioners, including defense attorneys often acting on behalf of lay defendants.[3] We could also say that in cases like this one, where indirect evidence constitutes the available, assessable data necessary for the criminal proceedings, for credible and professional investigations, and ultimately for the court's evaluative activities, it is essential.[4] It is no coincidence that we still consider the timeless Roman law maxim to be a guiding principle: *da mihi factum, dabotibi ius* (Give me the fact, and I will give you the law).
3) The significance of the criminalistic "first strike" cannot be overstated. Almost everything can be decided during the well-directed, professional (on-site) examination.[5] In this case, it was partly challenging that the victim's relatives and girlfriend cleaned and tidied up the "speaking" scene. Thus, the investigators who arrived the next day had to take the changes into account, and the "open book" of the scene was missing pages, although the most important details remained legible. Among other things, there were no liquid remain drops at the site of

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[2] József Stál, *Evidence Evaluation Related to the General Condition of Detention in Legal Practice* (PhD diss., Faculty of Law, University of Debrecen, 2021); Csongor Herke, *Detention* (Budapest–Pécs: Dialóg Campus, 2002), 45.

[3] Tibor Király, *Defense and the Defense Lawyer in Criminal Proceedings* (Budapest: KJK, 1962); Mihály Tóth, "The Age of the Three Ps: Populism, Paternalism, Pragmatism in Criminal Law," *Ügyvédek Lapja*, no. 6 (2023): 27; János Bánáti, "The Right to a Fair Trial from the Defense Lawyer's Perspective," *Ügyvédek Lapja*, no. 3 (2022): 2–5.

[4] Endre Bócz, ed., *Criminalistics*, vols. I–II (Budapest: BM Duna Palota, 2004); Endre Bócz, "The Role of Criminalistic Expertise in the Preparation of Criminal Proceedings," *Belügyi Szemle*, no. 9 (2010): 32–50; Endre Bócz and Géza Finszter, *Criminalistics for Law Students* (Budapest: Magyar Közlöny Lap- és Könyvkiadó, 2008); Miklós Angyal, ed., *Cognitive Criminalistics* (Budapest: Ludovika University Press, 2019); Csaba Fenyvesi, Csongor Herke, and Flórián Tremmel, eds., *Criminalistics* (Budapest: Ludovika University Press, 2022).

[5] László Pusztai, *Inspection in Criminal Procedure* (Budapest: KJK, 1977); Csaba Fenyvesi, "The Crime Scene Inspection as the First Strike in Criminalistics," in *In Memory of László Pusztai*, ed. Petra Bárd, Péter Hack, and Katalin Holé (Budapest: OKRI, ELTE Faculty of Law, 2014), 111–123; Gergely Gárdonyi, *Crime Scene Investigation* (Budapest: Ludovika University Press, 2023).

the victim's clothing and body burns. "Negative" (non-existent) traces often say more than those that do exist.[6]

4) The investigations of *justizmord* cases, both domestically and internationally[7], show that there can be multiple reasons behind wrongful convictions (miscarriage of justice, wrongful conviction, wrongful sentence).
5) We summarize these as follows:
   – Misidentifications presented as the most common cases;
   – False witness testimonies;
   – Police investigation errors (e.g., errors in identification, examination, influences, contamination of material traces, destruction of unique points, adherence to a single version);
   – Police and investigative legal violations;
   – Prosecutorial errors (e.g., failure to exclude evidence);
   – Errors in expert opinions (unfounded, professionally incorrect);
   – False testimonies and reports from other offenders, prison agents, informants, witnesses;
   – Flawed, weak, ineffective defense attorney activities;
   – False confessions;
   – Fabrication of evidence;
   – False indirect evidence.[8]

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[6] Gergely Gárdonyi, *Crime Scene Investigation* (Budapest: Ludovika University Press, 2023), 45.

[7] Péter Hack, "The Failures of Justice," in *Jubilee Study Volume of the Hungarian Criminal Law Society*, edited by Csaba Fenyvesi (Budapest-Debrecen-Pécs: MBT, 2011); Attila Badó and János Bóka, *Innocents Sentenced to Death* (Budapest: Nyitott Könyv, 2003); J. Wójcikiewicz, *Forensics and Justice* (Torun: Dom Organizatora, 2009); László Korinek, "The Innocence Project," in *A Bonis Bona Discere. Festschrift in Honor of Ervin Belovics on his 60th Birthday*, edited by Tünde A. Barabás and György Vókó (Budapest: OKRI, Pázmány Press, 2017), 333–351; Gábor Kovács and András Czebe, "The Role of Certain Cognitive and Human Factors in Expert Opinion Formation," *Belügyi Szemle*, no. 10 (2017): 89–103; Csaba Fenyvesi, *Tendencies of Criminalistics*, chap. VII (Budapest-Pécs: Dialóg Campus, 2017); Mónika Nogel, *Current Issues in Expert Evidence* (Budapest: HVG-ORAC, 2020); Innocence Project, http://www.innocenceproject.org (accessed January 15, 2025).

[8] C. R. Huff, A. Rattner, and E. Sagarin, *Convicted but Innocent: Wrongful Conviction and Public Policy* (Thousand Oaks: Sage Publications, 1966), 62; M. J. Saks and J. J. Koehler, "The Coming Paradigm Shift in Forensic Identification," *Science*, no. 309 (2005): 892; J. Wójcikiewicz, *Forensics and Justice* (Torun: Dom Organizatora, 2009); J. Collins and J. Jarvis, "The Wrongful Conviction of Forensic Science," *Crime Lab Report* (2008), accessed January 15, 2025, http://www.crimelabreport.com/library/pdf/wrongful_conviction.pdf; Csaba Fenyvesi, *Identification Attempt in Criminal Cases* (Budapest: Ludovika University Press, 2023).

6) In this case, beyond false witness testimonies, the issue of a singular version arises because any new data or evidence contradicting the base version has shaped the form and strength of the suspicion. In our understanding of the rule of law, the opposite should have happened in the proceedings in question, as well as in all similar cases. Namely, the versions should have been directed toward objective evidence.[9] Caution should be particularly exercised in cases where the accused is subject to severe coercive measures restricting personal freedom. (The psychological, human, and social disadvantages of several months, in this case, one year of deprivation of liberty and six months of home confinement cannot be compensated or rectified by any possible later restitution.)
7) The courts correctly applied the legal principle elevated to a constitutional level in our criminal procedure law, *in dubio pro reo* (when in doubt, for the accused). The imperative in favor of the accused halted the process heading toward *justizmord*.[10] We observed the practical manifestation of this principle in the adversarial procedure based on immediacy. (It is also a conclusion in this regard that if the victim's incriminating testimony—however contradictory and uncertain inside and out—only results in an acquittal due to lack of evidence. The absence of a crime can only occur with a significant exculpatory disclosure on the part of the victim.)
8) It is thought-provoking that the accused, who has no criminal record and is continuously employed, spent a year in a cell with individuals with multiple prior convictions, all the while believing that he had not committed any crime. This is supported not only by his subjective belief but also by objective data. Yet, the legal practitioners—paradoxically—expected him and continue to expect defendants in similar situations to calmly and coolly endure the confinement. Otherwise, for instance, by loudly proclaiming his innocence and displaying protest aggression, they could conclude: look how he behaves in conflict situations, which increases the belief in his guilt.
9) The paradox would have diminished if there had been no deprivation of personal freedom at all, had the authorities sufficiently scrutinized the initial incriminating (suspect-diverting) statement made by the gas station attendant. If they had considered the low-value purchases made on Sunday morning, the reliability of the witness's testimony,

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[9] László Korinek, *The Fear of Innocence*, in *Paradoxes in Criminology*, edited by László Korinek (Budapest: ORAC, 2023), 255–271.

[10] László Vargha, "On the New Regulation of the Principles of Criminal Procedure," Jubilee Yearbook, PTE Faculty of Law, 1975, 219–236; Flórián Tremmel, "In dubio pro reo," in *Hungarian Criminal Procedure* (Budapest-Pécs: Dialóg Campus, 2001), 86–88.

electronic data, recordings, and registrations. It would also have aided the fact-finding process and correctly directed the case if a polygraph test for the accused had been conducted after the suspect's testimony—as a control. It would have been useful for discovering the truth if the immediate mobile phone messages and calls sent after the victim's awakening in the hospital had also been examined by the authorities. Additionally, if the authorities had previously verified the victim's credibility using a polygraph while no distorting factors could have intervened.[11] (Did the victim come into contact with diesel fuel, whether intentionally or accidentally, under the influence of a mind-altering substance? This remained an unresolved question.) Furthermore, it would have helped establish a realistic factual basis if, during the nearly year-long period from May 17, 2021, to April 28, 2022, the authorities had inquired about the accused's personal defense and response to the evidence in an interrogation, not only the changing versions from the victim, which shifted from initial hot, anxious love to angry hatred. The diligent self-statements of the accused and the declarations made during the extensions of the arrest do not replace professional, truth-seeking, criminal-tactical interrogations. They do not lessen the accused's feeling that no one is interested in his words or defenses, that what he has to say is unimportant, and that his fate has already been decided by the authorities.

10) At the end of the seven basic criminalistic questions stands the WHY?[12] What motivated (initiated, inspired) the perpetrator to carry out the act? In Anglo-Saxon thought, the obligation to answer is prominent, while in continental thinking, it is not a particularly important or necessary element of the (incriminating) factual basis. It is not essential to find a reason. In this case, until August 17, 2021, no real, meaningful reason arose for a young man enjoying a secret love affair who was still embracing his partner at three in the morning. He leaves and only returns shortly after being called by the abandoned woman. Why would he harm his beloved in such a terrible way? If he had such an intention, why did he not finish it, especially since even five liters of diesel could be found in the shed canister? We know that the lack of meaningful motivation does not in itself exclude an attack or criminal intent. Yet, it would have been advisable to consider and evaluate from the outset that among those who commit brutal acts, two patterns or

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[11] Árpád Budaházi, *Polygraph: Instrumental Testimony Verification in Criminal Cases* (Budapest: NKE Szolgáltató Kft, 2014).

[12] Csaba Fenyvesi, "Basic Questions of Criminalistics," in P*écs Border Guard Scientific Publications 14*, edited by Zoltán Hautzinger and Gyula Gaál (Pécs: Hungarian Military Science Society, Border Guard Department, Pécs Branch, 2013), 341–349.

pathways can be observed. One strives with all their might to erase traces, evade responsibility, and hinder the success of the investigation. The other realizes the horrifying weight of their actions and, repentantly, reveals every detail. The accused in question did not belong to either category.

As a closing thought

Looking to the future, following the thoughts of Mihály Tóth, we, too, believe that in the eyes of lawmakers, "the future is not so complicated; rather, it is fundamentally based on binary technical norms that generate the operation of intelligent robots based on digital signals. Instead, it relies on the wise consideration of sensitive and empathetic legal practitioners."[13]

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[13] Mihály Tóth, "The Era of the Three Ps: Populism, Paternalism, Pragmatism in Criminal Law," *Ügyvédek Lapja*, 2023/6, 26.

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