

AUTHOR

Roy Black

Stop Calling It Murder

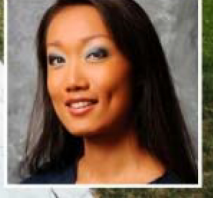
Sep 10, 2011 1:00 PM EDT

Half-baked theories about the mysterious death of Rebecca Zahau, who was found hanged after six-year-old Max Shacknai's accidental death, should not replace a dispassionate examination of the evidence, says lawyer Roy Black.

This summer I was in Los Angeles and avidly read the news reports on the unusual deaths of six-year-old Max Shacknai and Rebecca Zahau. I envisioned the forensic evidence as grist for either my law class or my blog. I was skeptical about [the bizarre details](#) of Rebecca's hanging and obviously so were the authorities, since four different departments worked the case: the San Diego County Sheriff's Department, Coronado Police Department, the San Diego County Medical Examiner and the California Department of Justice.

After nearly two months of intensive investigation by these four reputable law enforcement agencies, it was [conclusively determined](#) that Max's death was an accident and Rebecca Zahau's death was a suicide, likely triggered by overwhelming guilt and depression over Max's imminent death.

When these police agencies reported Rebecca's death a suicide I was even more intrigued. Fortunately the San Diego Sheriff's Department posted reports on their findings on their [website](#), which allowed the public, and me, an opportunity to see how they came to that surprising conclusion. Once I drilled down to the actual facts, rather than opinions, I could clearly see how it all happened. Unfortunately not all of the commentators or [experts](#) have taken the time to actually read the reports, let alone analyze them, and the result has been a variety of half-baked theories and opinions despite the facts. As Thomas Huxley warned, the "great tragedy of science is the slaying of a beautiful theory by an ugly fact," and this case is full of ugly facts.



Mike Blake / Reuters

On July 11, Max suffered a terrible fall from a staircase in his father's Coronado home while he was in Rebecca Zahau's care. He was rushed to the hospital clinging to life. Jonah Shacknai, the boy's father, and Dina Shacknai, Jonah's ex-wife and the boy's mother, kept vigil at his bedside.

After two days of hopeful reports, Rebecca Zahau for the first time learned in a 12:50 a.m. voicemail message that Max was brain dead, on life support, and his death was inevitable. Two hours later, Rebecca Zahau hanged herself from a balcony in an interior courtyard of the Coronado home. Her hands and feet were bound with pieces of the same rope that was tied around her neck, she had a gag in her mouth, and she was naked.

How could one person do this? How could it be suicide? Isn't this unprecedented? All questions asked by the public and advocated by Rebecca's family and their lawyer. All good questions that deserve an answer, and that answer can be found in the forensic reports.

At 12:50 a.m., she hears the shocking news about Max's worsening condition. Within two hours, in a fit of despair, she hangs herself. Is this so hard to grasp?

The crime scene technicians collected 10 DNA samples: from the rope used to bind her hands and feet, the rope looped around her neck, the section of rope anchored to a footboard of the guestroom bed, and a small knife next to the bed which may have been used to cut the rope. All the DNA collected was Rebecca's, and none was from any third party.

The technicians collected a significant number of fingerprints: from the guestroom door entry, the balcony door, the bed leg holding the rope, and from another knife discovered in the guestroom. All these prints were Rebecca's and none were from a third party.

An unusual message was painted on the door leading to this guestroom. It said, "She Saved Him. Can You Save Her." Only Rebecca's prints were found on the paint tube left in the room and she had splashes of the same paint on her hand and torso. The floor of the balcony holding the rope was very dirty and easily captured footprints. Only her footprints--other than a police officer's boot--were found. There was no evidence of a struggle, and she didn't have any defensive wounds on her body.

So how did she die? Rebecca was in excellent shape. Her friends called her a "health nut" who aggressively worked out and was a fit, strong young woman. We have to assume that if another person did this to her, she would have aggressively fought back. The toxicology tests found no drugs or alcohol in her blood. She was stripped naked. Her hands and feet bound. A rope was put over her neck. Was she dragged up to the second floor and carried out to the balcony and thrown over? How could anyone do all this without leaving behind a scintilla of microscopic evidence?

They would have to have been wearing a full rubber suit or some type of space suit and levitated over the scene. As Sherlock Holmes noted, "When you have eliminated the impossible, whatever remains, however improbable, must be the truth."

And is suicide that improbable? Rebecca had left her job to care for six-year-old Max. She was responsible for his care and was in the bathroom when he went over a balcony, hit a chandelier and crashed head first into the floor. She valiantly performed CPR on him. At first the medical reports were hopeful, but then at 12:50 a.m., she hears the shocking news about Max's worsening condition. Within two hours, in a fit of despair, she hangs herself. Is this so hard to grasp? Any parent who suffers the death of a young child, especially under these circumstances, can understand her state of mind.

Who in the short two hours between the news that Max had taken a turn for the worse and the hanging could have accomplished this impossible feat? The sheriff has determined that cell phone evidence and video cameras at the hospital confirmed that Jonah Shacknai was at the hospital standing vigil for Max the entire time when Rebecca Zahau's suicide occurred. Video cameras at the hospital also showed Dina was there during that time period. And Jonah's brother Adam, who discovered Rebecca's body, was polygraphed and cleared as well.

As a trial lawyer, I deal with facts and evidence in a court of law. It is clear that at least in some quarters of the court of public opinion, there is a different standard. As one of my journalist friends once told me, "Some of my colleagues never let the facts get in the way of a good story." This should not be allowed to happen under circumstances where people have already suffered so much because of the tragic deaths of loved ones.