

NMDPS - CHILD ABUSE - VEHICLE

A McKinley County jury found defendant guilty of negligent child abuse. Negligence means more than simply being absent minded or careless; it means placing a child in a situation which endangers the life or health of the child. The individual who does this has a reckless disregard for the child's safety, knows that their conduct creates a substantial and foreseeable risk to the child, but remain indifferent to the consequences. Court of Appeals had to decide if the following facts were sufficient for a conviction.

It was the month of July, early Sunday morning, about 1:30 a.m. Defendant left her twenty-one-month-old child alone and asleep on the seat of her unlocked truck with the windows slightly open in the parking lot of Cowboy's. There were about 200-240 people in the bar, a place known for frequent fights, vandalism, and loitering in the parking lot. A Gallup police officer checking on the situation observed the child holding a bottle of spoiled milk, smelling foul, with numerous alcohol containers in the interior of the truck. The child was unprotected and vulnerable to anyone passing by.

To support a conviction for child abuse, there must be a reasonable probability or possibility that the child will be endangered. Here, the child was directly in the path of danger because Cowboy's parking lot was a dangerous place. Furthermore, it is reasonably foreseeable that the child could have climbed out of the truck and wandered about the busy parking lot endangering himself by encountering an unsuspecting driver or rowdy patrons.

Additionally, since it was highly probable that Defendant was driving drunk, the Defendant acted with a reckless disregard for the safety of her child by placing him in a situation "that may cause harm" to the child by possibility getting into an automobile accident. Her conviction was upheld. State v. Watchman (2005) - - ADA Elliott



It's from an unsolved Homicide, but it makes a great pencil holder.