

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

**SUPERIOR COURT
CRIMINAL ACTION
NO: 2009-841**

COMMONWEALTH

vs.

KRISTEN Labrie

SENTENCING MEMORANDUM

To paraphrase the British writer G.K. Chesterton: “the young demand justice; the rest of us beg for mercy.” That sentiment is particularly true in this case. An eight year old disabled boy, Jeremy Fraser – whose interests are represented by the Commonwealth – demands justice for his attempted murder and the wanton conduct that caused him a substantial risk of death. On the other hand, his mother, the defendant Kristen Labrie, begs for mercy and claims that she was overwhelmed by caring for a profoundly autistic child.

There is little doubt that Ms. Labrie was placed in an extremely trying and exhausting situation which stirs one’s sympathies. She was a single mother with significant financial concerns and she was caring for a non-verbal seven year old boy still in diapers. The diagnosis of her son’s cancer and the promise of a lengthy and grueling chemotherapy treatment only added to her burdens. On some of those nights that she slept in Jeremy’s hospital room, she must have felt that she was confronting these monumental burdens all alone. Granted the hospital, her family, and the Commonwealth provided emotional, social worker, nursing and financial assistance, still in Ms. Labrie’s mind, she must often felt alone. She was under tremendous pressures. I understand that many situations in life are not black and white and that we often operate in gray areas where choices are not easy to make. I also understand that there are often many facets to a person, Ms. Labrie included.

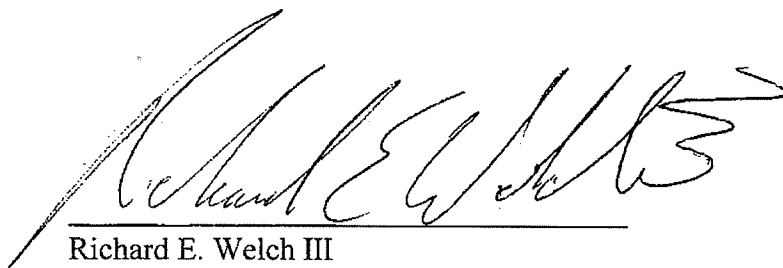
While one must be sympathetic, it is also necessary to be realistic. Raising any child can be a burden at times, and caring for an autistic child can be a particularly heavy load to bear. As adults, i.e. relatively mature parents, society legitimately expects us to carry that load and protect those children from significant harm. Autism is just a label and it covers a huge array of symptoms. By all accounts, Jeremy Fraser was a loving, affectionate, and engaging child. Considering any child as just a burden is, of course, unfair. As thousands of parents of autistic children have discovered, many of these children have an inspiring capacity for growth and love. A parent of a developmentally delayed 7 year old is often amazed at what the child has accomplished by the age 14. In the last analysis, our society is judged on how we protect its most vulnerable members, the

children and the disabled. Jeremy Fraser, being a child with moderately severe autism, was one of society's weakest and most beleaguered. Society has a most significant interest in using the criminal justice system to discourage and prevent substantial injury to such disabled children.

It is important to note that the defendant was not charged with – or convicted of – the murder of her son. Jeremy Fraser died of his cancer and the defendant intentionally withheld the chemotherapy medication which would have given him an 85 to 90% chance of complete recovery. The Commonwealth, however, cannot prove that Jeremy Fraser was not within the unlucky 10 to 15% of persons who do not recover. Thus, the Commonwealth – knowing that it could not prove causation – responsibly did not charge that crime.

What the defendant did was commit the crime of attempted murder. As difficult as it is for us to understand, she had the specific intent to kill her young son and intentionally withheld potentially life saving medication from him in order to accomplish her goal of murder. She allowed her son to suffer the misery of inpatient chemotherapy, but refused to do her part and administer the relatively less painful “at home” medications. This is far from a case where there is only a slim chance of medical success or recovery, or a situation where any recovery will result in a greatly diminished quality of life, or a DNR scenario. Nor does this case present a parent's difficult choice between following her strongly held religious beliefs or administering medical care to a child. To the contrary, here the defendant allowed Jeremy to endure the pain of inpatient chemotherapy to gain the 85 to 90% promise of full recovery, only to then intentionally subvert Jeremy's chances by not following up with critically important “at home” medications. Ms. Labrie's was an extended, secretive, and calculated act that chills the soul.

This type of conduct demands punishment, albeit tempered by mercy. Given that Kristen Labrie attempted to murder her son, she deserves a state prison sentence of 8 to 10 years. This sentence is to be followed by a five year term of probation on the wanton and reckless charges contained in Counts 2, 3, and 4. A special condition of that probation will be the defendant's successful completion of an anger management program recommended by the Probation Department.



Richard E. Welch III
Associate Justice of the Superior Court

Dated: April 15, 2011