

# Former daycare owner convicted of manslaughter: 'What am I going to say to my children?' <sup>[1]</sup>

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## EXCERPTS

A former Mississauga daycare owner convicted of killing a 14-month-old girl in her care knows there's a good chance she'll end up in prison.

April Luckese, 38, a married mother of two young children, has been out bail since January 2011. She pleaded not guilty to manslaughter in the death of Duy-An Nguyen. The young girl was rushed to hospital on Jan. 5, 2011 from April's Daycare, an unlicensed home-based business on Asta Drive, near Cawthra Road and the QEW, run by Luckese.

The child was taken off life support two days later.

Superior Court Justice Gordon Lemon convicted Luckese of manslaughter, ruling that, in a momentary lapse, she assaulted the child.

"I find that Ms. Luckese...momentarily lost her patience with Duy-An and assaulted her, causing the skull fracture," Justice Lemon found.

"There is no other rational explanation for the skull fracture."

Luckese was in tears after the ruling. Her lawyer, Stephen Whitzman, said his client is shocked and "devastated" with the ruling and he will be considering an appeal.

"There's a real chance she is going to go to prison as a result of this. She was saying to me 'What am I going to say to my children?' I don't know how to answer that."

Luckese remains on bail and returns to court April 22, when the Crown and Whitzman will make submissions on sentencing.

Luckese essentially claimed the incident that claimed Nguyen's life was an accident.

Crown lawyer Amber Lepchuk told the court during the trial that Luckese told police she shook the baby, who had been in her care for only two days.

Lepchuk said doctors concluded that Nguyen died from severe head trauma hours after she was rushed to hospital. She had a fractured skull and swelling and bleeding on her brain, Lepchuk said in her opening statement of the trial.

"The Crown's position is that Mrs. Luckese is the one who inflicted the head trauma and failed to provide the necessities of life," Lepchuk said.

The court heard that Luckese initially told police she tripped while carrying Duy-An, and the girl hit her head on a banister. She then recanted and claimed that she "lost control" and shook the child, the court was told.

Whitzman argued during trial that her statements to police were not true.

Crown witnesses during the trial included Peel Regional Police officers who investigated the home daycare, the neighbour of the deceased baby's parents, and parents whose children attended the daycare.

The Peel Crown Attorney's Office originally stayed a murder charge and instead opted to charge Luckese with criminal negligence causing death and failing to provide the necessities of life.

However, back in 2013 in Brampton court, Justice Ian Cowan upgraded those charges to manslaughter after hearing several days of evidence during Luckese's preliminary hearing.

An Nguyen, the child's mother, told the court during her testimony that she received an accidental phone call from the home daycare where she'd left her little girl that fateful morning. She said she could hear Luckese and another woman trying to wake the 14-month-old

from her afternoon nap.

But she wouldn't wake up.

"I heard a lady's voice say, 'This is very weird,'" said Nguyen, 34, speaking through a Vietnamese interpreter. "All I was doing was listening to them. I couldn't talk to anybody. I was becoming very frightened."

By the time Nguyen rushed to the home, her daughter was in an ambulance. She died in hospital.

-reprinted from The Mississauga News

**Region:** Ontario <sup>[3]</sup>

**Tags:** unregulated family child care <sup>[4]</sup>

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