

NMDPS - CHILD ABUSE - AGE

Before he disappeared, fifteen-year-old Robbie Stroup and a friend went to Defendant's home in Moriarty every day for at least two weeks. The home was absolutely filthy with animal feces, rodent droppings, and rotten food all about. Defendant gave alcohol to Robbie every day, to the point where he got sick. The stove top, where Defendant cooked for Robbie, was littered with rat droppings. Defendant was convicted of contributing and child abuse by endangerment.

Was there enough for child abuse by endangerment? Although it is not necessary that a child actually suffer physical harm, there must be a reasonable probability or possibility – more than mere speculation – that a child will be endangered. A filthy house by itself isn't necessarily child endangerment but this situation, combined with rodent droppings and the consistent serving of alcohol, was more than enough.

An interesting objection was raised concerning the age of the victim. When child abuse or endangerment comes to mind, we think of a small child or infant. An argument was made that Robbie was capable of making a choice and could easily have avoided the situation. He was a fifteen-year-old, not a "defenseless child too young to protect himself." Therefore, Defendant should not be guilty of child abuse.

Supreme Court of New Mexico rejected this argument and upheld Defendant's conviction for child abuse. The Legislature has made it clear that child abuse applies to any child under the age of eighteen. NMSA 1978 30-6-1(A)(1). Yes, Robbie was old enough to avoid going to Defendant's home. This does not, however, absolve Defendant from being held accountable for his actions. State v. Jensen (2006).

VICE DIVISION



I don't understand it, I haven't been propositioned once!