

OPINION

Judicial system acquitted in Anthony case

By DAN SMALL

An extraordinary thing happened in an Orlando courtroom this week. In the midst of the absurd media circus of the Casey Anthony case, a real trial broke out — with real laws and real rules. A group of ordinary folks serving as jurors agreed to work through the holiday weekend and took the principles that holiday stands for — beyond fireworks and hot dogs — and applied them correctly in a tough situation.

Let's be clear about two things. First, something awful happened here, and the betting is that Casey Anthony knows more about it. Second, Casey Anthony is an awful person: partying on and lying, while her baby lay dead.

What is also clear is that the media and the talking-

head lawyers got way out of control. Way far from criminal trials and truth. One of the many rabid spectators was quoted as saying this was just like a reality TV show: sex, lies and videotape. And what a show it was: the "hot body" mom, the cherubic baby dead, forensics straight out of CSI, and wild allegations from the defense.

The commentators treated it that way. Like a game show: who was playing best, what's the score, who was going to get voted off. The overwhelming consensus was clear: The defense is weak, this defendant is awful, she's guilty.

So what went wrong? Nothing. The true lesson of this trial is what went right.

Both sides overplayed their hands. For the defense, the "Grandpa did it" theory

was absurd and offensive. But for the government, the first degree murder theory was also too much. The judge instructed the jury that first degree required premeditation: a clear prior decision to kill. You need a lot more evidence than a computer search or two to prove premeditation by a mother against her own baby.

When both sides lose credibility like that, guess who wins! The system we celebrate on Independence Day doesn't care about the score, or competing theories. It puts the entire burden on the government to prove every element of every crime beyond a reasonable doubt. This is no game show.

Years ago, as a federal prosecutor here in Boston, I got caught up in a case complaining about the defense's theory. U.S. District

Court Judge Joseph Tauro, a wise jurist, leaned over the bench, smiled, and said, "Mr. Small, I think the defense theory is: 'Prove It!'" That basic wisdom is what the government and the commentators forgot here.

Proving that Casey Anthony is an awful person, and that something awful happened, is not proof that she did that awful thing. Trials are about connecting the dots, and we make those key connections by evidence, not inferences. Here, there just wasn't enough: no cause of death, no DNA or fingerprints around the body, no witnesses to the death, no connection. The leap from being a bad person, to being a child murderer, is just too far without evidence.

The jury understood that. Is she a liar? Of course she is. Even the defense had to

embrace that. So she stands convicted of four counts of lying. But the jury just never bought the murder theory. The verdict came back with lightening speed: 33 days of trial, more than 400 pieces of evidence, just 11 hours of deliberation. If they bought the government's theory, 11 hours would just be getting their seats warm. Clearly, though, it wasn't close. The evidence just wasn't there.

Casey Anthony was not "found innocent." That doesn't happen in our system. It's not an either/or choice: pick your favorite contestant. Whatever guilt she carries for whatever happened, she and any others involved will just have to live with. We may never know.

Instead, she was found "not guilty." Which means despite all the media circus,

people selling their stories, the whole world convinced she did it, and all the other ugliness, a group of ordinary citizens stood up and said, "Not on my watch!" That's not how this works. That's not how we convict people of crimes in this country. Amazing.

Can something good come out of something so ugly? Actually, yes. We can learn from our false rush to judgment. Heroes can be found everywhere, if we just take the time to understand. Even in a jury box in Orlando. That's something to celebrate.

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