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PRESS RELEASE

For Immediate Release on Feb. 9, 2016

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Statement By DA McMahon On Second Circuit's Reversal Of District Court's Decision

“We are gratified by the Second Circuit’s reversal of the District Court’s grant of habeas corpus relief, and relieved that the justly obtained conviction of Michael Duhs for his reprehensible crime against a small child will stand.”

Case summary:

On September 16, 2005, MICHAEL DUHS was at home taking care of the three-year-old son of his girlfriend, who was away for the day at school. During the morning, Duhs filled the bathtub with scalding hot water, later estimated to be between 130 to 160 degrees, grabbed the toddler, and plunged his feet and ankles into the water, causing second and third-degree burns, penetrating the skin into the fat, muscle, and bones underneath. Duhs did not take the child to the hospital. When the boy’s mother arrived home around 5 p.m. and discovered the child’s grievous injuries, she rushed him to the hospital. A pediatric emergency room doctor examined him and asked him how he was injured, and why he had not gotten out of the tub. In response the child answered, “He wouldn’t let me out.”

Defendant Duhs was found guilty at trial of Assault in the First Degree and Endangering the Welfare of a Child in February 2007. He was sentenced to 20 years in prison as a violent predicate felon in June 2007.

In February 2015, the District Court granted a new trial and concluded that the admission of the boy’s statement to the emergency room doctor had deprived Duhs of his constitutional right to confront the witness against him.

The Richmond County District Attorney’s Office appealed that decision to the Second Circuit Court of Appeals, which on Feb. 8, 2016 reversed the District Court and reinstated the conviction, holding that there had been no violation of Duhs’ rights, and thus, no new trial is needed.

The appeal was prosecuted by ADA Anne Grady, Deputy Chief of the Appeals Bureau, under the supervision of ADA Morrie Kleinbart, Chief of the Appeals Bureau.

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