

Confession Not Enough in Patz Case

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Prosecutors brought a formal murder charge against the man who allegedly confessed to murdering 6-year-old Etan Patz in New York City in 1979, but they will face the challenges of trying a decades-old case with little evidence.

Pedro Hernandez appeared at his criminal-court arraignment early Friday evening via a video-link from Bellevue Hospital Center where he had been admitted for a psychiatric evaluation. He sat wearing an orange jumpsuit and didn't address the court as his attorney said the suspect had a long history of mental illness, including schizophrenia and bi-polar disorder.

The attorney, Harvey Fishbein, said Mr. Hernandez also suffers from visual and auditory hallucinations during the brief arraignment in which his client was ordered held without bail by Manhattan Criminal Court Judge Matthew Sciarrino Jr. He wasn't required to enter a plea.

Becky Hernandez, left, and Rosemary Hernandez, daughter and wife, respectively, of Pedro Hernandez, who allegedly confessed to killing Etan Patz, as they leave Manhattan Criminal Court Friday.

Etan Patz disappeared 33 years ago Friday while walking to his school bus stop in New York's Soho neighborhood. His case symbolized a coordinated effort to find missing children across the country. His photo was one of the first on milk cartons, and National Missing Children's Day was established as May 25 in the child's honor.

Yet, for years, the case lay largely dormant until it was reopened by the Manhattan District's Attorney's office in 2010, leading to this possible break.

Authorities on Thursday questioned a man they said had confessed to the murder of six-year-old Etan Patz, a 1979 case that drew national attention to the issue of missing children. WSJ's Tamer El-Ghobashy reports. Photo: AFP/Getty Images.

Prosecutors now must look for clues that the 51-year-old Mr. Hernandez provided over the years that might help them corroborate the confession, such as facts he knew about the murder that weren't publicly disseminated or statements he may have made to friends or family, said Bennett Gershman, a law professor at Pace University and a former prosecutor. "A confession is not enough to prove guilt without proving that the confession is credible."

In announcing the arrest Thursday, New York Police Department Commissioner Raymond Kelly said it was highly unlikely that Etan's body would ever be

recovered but expressed confidence in Mr. Hernandez's confession. Mr. Kelly said Mr. Hernandez claimed that he lured the boy into the store's basement with a soda, killed him and left him in a trash bag. A police report from 1979 listed Mr. Hernandez as being at a bodega in Etan's neighborhood at the time.

Etan Patz's disappearance in 1979 helped launch a missing children's movement that put kids' faces on milk cartons.

In April of this year, the Federal Bureau of Investigation and New York Police Department descended upon an apartment building near the corner of Wooster and Prince streets in Manhattan's Soho neighborhood, half a block from the Patzes' house.

Earlier

Mr. Hernandez, now of Maple Shade, N.J., was identified as a person of interest when a relative came forward to report that Mr. Hernandez allegedly had made statements over several years about killing a child in New York, Mr. Kelly said.

According to the New York State Criminal Code, "a person may not be convicted of any offense solely upon evidence of a confession or admission made by him without additional proof that the offense charged has been committed."

New York law on corroboration was written to prevent people from confessing to crimes that never happened, said Daniel Gitner, a partner at Lankler Siffert & Wohl LLP.

Besides the apparent absence of evidence that backs up Mr. Hernandez's statements, the case is wrought with legal pitfalls, including: that his confession came days before the anniversary of the child's disappearance; that others have previously come forward to falsely admit to the crime; and that questions have been raised about the defendant's mental health.

The lack of a body presents a particularly difficult legal burden and takes away a crucial piece of evidence: proof that Etan is actually dead and that his manner of death matches the alleged killer's description of the crime.

"The boy's remains have not been recovered, there is no forensic or DNA evidence and I am unaware of anything in the admission that is so fact specific beyond what anyone could read in the newspaper or gather from other media sources over the years," said **Jeremy Saland**, a criminal defense attorney and former Manhattan prosecutor.

However, James Cohen, a professor of law and an expert on criminal procedure, said in a case of such notoriety, a jury may not be very difficult to sway on thin evidence. Mr. Cohen said something as simple as someone testifying that Mr. Hernandez lived in the area where Etan lived and was present at work on the day of the murder could serve to bolster the use of defendants' confession as the centerpiece of a prosecution.

Confessions, with or without corroborating evidence, have always been challenged during legal proceedings.

A false-confessions study conducted in March by the Northwestern University School of Law's Center on Wrongful Convictions found that of the 104 documented wrongful convictions in Illinois dating back to 1986, 55 of them, or nearly 53%, rested wholly or partly on false confessions. Thirty-eight of those cases involved the confessions of the accused and 17 others stemmed principally from false confessions of co-defendants, the study found.

Bruce Barket, a criminal defense attorney who represented Marty Tankleff, who spent 17 years in prison after falsely confessing to killing his parents under alleged police coercion, said the case is hardly closed for prosecutors. But, he said, there is a scenario in which they could be spared a trial: Mr. Hernandez could plead guilty.

—Joseph Palazzolo, Amelia Harris and Danny Gold contributed to this article.