

# Trait Given 25-to-Life In 4 Slayings

## Judge Criticizes Quality of Defense

By GREG FAHERTY

Buffalo-Express Staff Reporter

Gail Trait, convicted of the 1978 butcher knife murders of her four young children, was sentenced to 25 years to life in prison by a State Supreme Court justice on Monday.

But the lengthy sentence imposed on Mrs. Trait was almost anticlimactic compared to the criticism which Justice Joseph D. Mintz heaped on defense attorney Carl Vizzi for his handling of the case.

"A serious question exists as to whether Gail Trait received proper representation by you in this case," the judge told the defense lawyer.

### Area for Review

Justice Mintz told Vizzi that one area the Appellate Division should review in its consideration of an appeal is "your conduct of the defense in this case."

The judge accused the defense lawyer, among other things, of inadequate preparation, inability to properly frame questions and objections and alienation of the jury.

Mrs. Trait, 27, was convicted by a jury on Dec. 20 on four counts of second-degree murder for the July 16, 1978, slayings of her four children, aged 2 to 9, in a Montana Avenue apartment.

By its verdict, the jury of nine men and three women rejected a defense of innocent by reason of insanity.

### Intends to Appeal

After the judge denied a defense motion to set aside the verdict and order a new trial, Vizzi announced his intention to appeal from the conviction.

The verdict was overwhelmingly one-sided, said the defense lawyer. For any intelligent person to find she was responsible for her actions is absurd, he argued.

"In my view, there are far more serious errors by you that deserve and require appellate review," Justice Mintz told Vizzi.

"You alienated jurors to such an extent that may have had an adverse effect on the verdict," said the judge.

### Cursory Examination

During the trial, after acknowledging the defendant's guilt in his opening remarks to the jury, Vizzi indicated he would make only cursory examination of preliminary witnesses and concentrate his questioning on psychiatrists, said the judge.

"As trial proceeded, you cross-examined and re-cross-examined witnesses for the most part for no purpose or avail," the judge told Vizzi.

Justice Mintz accused Vizzi of violating the court's "gag order" against commenting to the press during trial and called the defense lawyer's "general decorum inexcusable and at times reprehensible."

"All those things may have contributed to the unfortunate result of the verdict," said the judge.

The outspoken, court-appointed defense attorney, who clashed frequently with Justice Mintz during trial, called the judge's remarks "outrageous."

"It is very easy to shift criticism when you should be the subject of criticism," Vizzi shot back. "You were not experienced to try the case. You were not qualified."

The defense lawyer said he has a "track record of acquittals" adding that he lost \$25,000 to \$50,000 in legal fees to spend eight weeks in the Trait trial.

"How dare you tell me what are the important issues?" said Vizzi, waving a forefinger at the judge. "Don't argue with success. I've received many acquittals and would have here but for your conduct."

### Two Prosecutors

"You were for prosecution," charged Vizzi. "That was very clear. It was like trying a case in front of two prosecutors."

Justice Mintz said he doubted the Appellate Division would allow Vizzi, as court-appointed counsel, to pursue the appeal. The judge directed that the Legal Aid Bureau of Buffalo represents Mrs. Trait on the issue of whether she was adequately represented.

Justice Mintz sentenced Mrs. Trait to 25 years to life on each of the four counts, the terms to run concurrently. A sentence of at least 15 years to life on each count was mandatory.