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## Sitter freed on new evidence

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Former Park City day-care owner Maria Abigail **Tiscareno** had "one foot in a prison door" after a jury convicted her in January of severely shaking a child, says her defense attorney. But **Tiscareno** won a second trial based on an erroneous jury instruction and newly discovered evidence. And Thursday afternoon, following a four-day trial without a jury, 3rd District Judge Deno Himonas acquitted the 41-year-old woman of second-degree felony child abuse.

The former owner of Abby's Child Care began crying and screaming upon hearing the verdict -- which ended 18 months of fear and uncertainty.

"It has been very hard," **Tiscareno** said in an interview. "I was scared. I mean, it was very terrible."

The mother of three -- who was facing a potential one-to-15-year prison term -- said it also was painful to be accused of harming a child. "It hurt me a lot," she said.

Defense attorney James Bradshaw called the original conviction "very unjust" in light of the new medical evidence -- a pathology report that supports an initial scan of the boy's brain, showing new bleeding on top of older bleeding.

Bradshaw discovered the report while preparing for a civil suit filed against **Tiscareno** by the boy's parents.

Prosecutors had charged **Tiscareno** based on the widespread medical belief that symptoms of brain injury -- breathing difficulty and unconsciousness -- appear almost immediately following a shaking episode. But the new evidence of two distinct bleeding episodes cast doubt on **Tiscareno's** culpability.

**Tiscareno** -- the only adult present at the day care on Nov. 14, 2003 -- called 911 about three hours after James Molineux left his son at her

day care. She reported the boy was having trouble breathing. She later told police she shook the baby in an attempt to save his life because he was having a seizure.

She testified at her first trial that the "shaking" was gentle, and little more than jostling.

Doctors said the boy had been injured by violent shaking and possible impact. But one defense expert claimed the first bleeding episode had occurred 11 days before the Nov. 14 injury.

Because of permanent brain injuries, the alleged victim, Nathan Molineux, now 3, remains unable to walk, talk or swallow food.

Summit County Attorney David Brickey said he was disappointed by the verdict.

"But I understand the judge had a very difficult decision," he added. "I accept it. We will live with consequences, adapt and move on."

Brickey said there were no plans to reopen the investigation.

"Unless we get new information, we don't know where or when that first injury took place," Brickey said.

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