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The View From Here

Case against Carroll fails the smell test

By CARL STROCK

Other evidence against Jack Carroll, the Troy man convicted of sex abuse? Well, the testimony of a nurse practitioner, Jane Szary, who examined the 13-year-old girl who was supposed to have been abused by him.

Ms. Szary, of OB-GYN Health Associates in Troy, concluded that what she found was consistent with "vaginal penetration at sometime."

Her "positive findings" were a certain exterior redness (we're talking about private parts), a small cervical discharge, and an "old transection," or break, of the "hymenal band."

This did not prove that Jack Carroll had done anything, but it seemed to prove that someone had done something and so served in the trial as supporting evidence.

Jack Carroll's lawyer, Steve Coffey, did not offer a medical witness of his own to rebut Ms. Szary's testimony, nor did he trouble to cross-examine her, so the testimony went into the record unchallenged.

Alas, after it was too late and Jack Carroll was already in prison, the Carroll family engaged a doctor in Schenectady, Robert Fay, to review Ms. Szary's work, and Dr. Fay concluded that the good nurse practitioner didn't know what she was talking about!

"Not one of these reported findings suggest old, penetrative, sexual trauma," he wrote in his review.

Redness could be from any little irritation, a discharge could be from any little infection, and as for the break in the "hymenal band," well, a hymenal band is "a tiny, not very forensically significant anatomical structure" not to be confused with the hymen itself - though I understand that is a nitpicking distinction.

But whether hymen or band, anything could cause a little break, especially when a girl, as in this case, takes karate lessons. It doesn't prove a thing.

Too late, of course. But isn't that interesting?

I tried to ask Ms. Szary about it, but she declined to talk to me, citing patient confidentiality.

By the way, she's now Mrs. Weber, the wife of Troy police detective Steve Weber, the guy who interrogated Jack Carroll and later falsely conveyed the impression that Carroll had confessed to him.

It was he who brought the girl to Ms. Szary for the exam, when Ms. Szary was his girlfriend, which is interesting if you recall that he was already convinced without having done any investigation that Carroll was guilty.

He turned the girl over for an exam, and his girlfriend reported back that the results were "consistent with vaginal penetration at sometime." Neat.

Actually that was getting ahead of the curve, since at the time the girl did not claim anyone had had sexual intercourse with her. She claimed only that Jack Carroll had engaged in sexual "touching," and in fact she had told Weber she was a virgin. (This is all on the record.)

After the "positive findings" came back from Ms. Szary, however, Weber was able to inform the girl that she was not a virgin - imagine such presumption! - and the case built from there.

A week later, on March 18, 1997, the girl signed another statement, much more elaborate than the first, in which she (or whoever wrote it) repeatedly used the formulaic phrase that would later turn up in her trial testimony, to wit, that at various times, "I felt pressure between my legs and inside of my vagina."

Six times that odd, legalistic construction appears in her statement of March 18, 1997, taken by Detective Weber and his partner, state police Investigator Ed Girtler.

Now, whose words do you think those were, ladies and gentlemen? Do you think they were the words of a 13-year-old girl, or do you think they were the words of a canny adult trying to build a case?

I mean, Weber told me himself he was allowed to use "trickery and deceit" once he had made his determination that someone was guilty.

You don't have to be a genius to see that this case stinks.