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The View From Here

High court will hear appeal by Jack Carroll

By Carl Strock

Hallelujah is all I can say. The Court of Appeals has agreed to hear the case of Jack Carroll, the Troy man who was convicted two years ago of sexually abusing a young girl after crucial evidence in his favor was kept out of his trial.

It was a long shot. The court considered nearly 3,000 requests for permission to appeal convictions last year and granted only 50 of them, but, heaven help us, it granted this one.

That doesn't mean Carroll gets out of prison, and it doesn't mean he is allowed a new trial, it only means the court will listen to arguments - probably sometime in the fall - but one step at a time.

"All we've ever asked for is a true and honest chance to be heard," says his lawyer, Mike Koenig of Albany, and I second that. Let an impartial panel of judges take a look at the case and see if they don't agree the guy got shafted.

If they do agree, then he will get a new trial, that's all.

In case you've forgotten, Carroll is the guy who the cops tried to trap into incriminating himself by getting his alleged victim, a 13-year-old girl, to telephone him and confront him with charges of sexual abuse while the cops secretly recorded the conversation.

Far from incriminating himself, however, Carroll reacted with horror and kept saying to the girl, "Oh, my god, I don't know what the hell you're thinking of . . . I never did anything to you! Me? Jesus! . . . What do you think, I'm sick?" and so forth, for 15 agonizing minutes.

The tape of the call, which of course would have been fatal to him if it had gone otherwise, was not allowed into evidence in Rensselaer County Court on the fantastic grounds that it was "self-serving hearsay," so the jury never heard it. But the jury did hear the testimony of Detective Steve Weber of the Troy Police Department and Investigator Ed Girtler of the state police, both of whom testified that Carroll more or less confessed to them during a later three-hour interrogation. Conveniently enough, the cops did not tape-record that interrogation and took almost no notes, so there was only their word for it, and their word was not considered hearsay.

Worse, Weber later admitted to me in an interview that Carroll had not confessed at all but rather had adamantly maintained his innocence during the interrogation.

"We tried to get him every way we could, and he wouldn't go for it," he told me, with disarming frankness.

So it's a disturbing case. The foundation of it is the claim by the girl that she endured repeated sexual encounters with Carroll over the course of two summers, though on the witness stand she could not remember if she had her clothes on or off during those encounters, if Carroll had his clothes on or off, if it hurt, or anything else that one might expect to have made a vivid impression.

Her language, in my view, was the formulaic memorized language of an adult trying to make a case rather than the sincere language of an injured teen-ager: "I felt pressure inside my vagina," and so forth, repeated over and over.

This story arose, by the way, only after Detective Weber had informed her she was not a virgin, which he did on the basis of an exam by his own girlfriend (now wife), a nurse practitioner in Troy - which is another little detail that did not come to light at trial.

The girl herself had said she was a virgin and merely claimed unspecified "sexual touching," based on nothing more substantial than a dream she had had, and from there the thing escalated.

Carroll says he kept believing that what for him was a nightmare would get cleared up, but of course it never did, and for the past two years he has been confined to Clinton Correctional Facility, a maximum-security prison near Plattsburgh, where he is doing 8 to 25 years, his life pretty much shot.

I of course don't claim to know that he's innocent, but I am confident he did not get a fair trial or anything close to it. Now with the granting of "leave to appeal" by Chief Judge Judith Kaye, I rejoice that he might - just might - get one yet.