

January 9, 2001

The View From Here

## **Carroll retrial comes with no guarantee**

By CARL STROCK

The new trial of Jack Carroll begins today with jury selection at the Rensselaer County Courthouse, and I wish I could say I was sanguine about the outcome this time, but I'm not really.

If the girl who accused him of molesting her repeats her accusations on the stand in an even halfway believable manner I think it will be difficult for a jury not to sympathize with her no matter how little supporting evidence is offered and no matter how many holes the defense attorney is able to shoot in the rest of the case.

Child sex abuse is a sufficiently abhorrent offense that the people who make up a jury are likely to take no chances. Besides which we are still riding a wave of sex-abuse panic which began in the early 1980s and has yet to dissipate entirely, a wave of panic that has resulted in many a notorious case of not just false but even preposterous charges, with any number of unsuspecting citizens winding up in prison because of them.

The trial occurs in that lingering social climate.

The girl in the case never did say Jack Carroll raped her - that was an inference drawn by a couple of eager cops, an equally eager prosecutor, and a gullible jury the first time around - but she did say he sexually fondled her on half a dozen occasions when she was between the ages of nine and 13, and if she says it again no one can be sure if the skeptical faculty of 12 random people in Troy will remain operative.

At least this time the jurors will have the benefit of hearing how Carroll himself reacted when the girl stated the charges to him over the telephone (with the active coaching of a state police investigator). The police tape of that conversation, intended to trap Carroll, was excluded from the first trial but will be admitted this time, and on it Carroll sounds very much like an innocent man - flabbergasted and disbelieving.

I can't listen to it and believe he's guilty, but of course I can't guarantee how 12 jurors will take it. A trial is always something of a crapshoot.

The girl is now 17, rather than 14 as she was at the first trial, so it should be a little easier for a defense attorney to cross-examine her without appearing to be an ogre, but that too is uncertain. I could make this unhappy story much clearer if I could tell you the relationship between Carroll and the girl, but unfortunately I can't, since it's media policy to protect the identity of the victims of sex crimes even if we don't believe any crime was really committed. But suffice it to say there was a legitimate relationship of long standing, and there was also sufficient social dynamic in their lives to explain why the girl might have made up false charges.

Fifty years ago people made up charges of communism; 400 years ago they made up charges of witchcraft; today it's sex abuse.

How much of the relationship and the dynamic the jury will hear, I can't tell. The first time the jurors heard very little and were left to wonder why a girl would say such things if they weren't true.

This time I hope they hear the whole story, but the rules of evidence at a trial don't always permit the telling of whole stories.

So this is an uncertain matter. Jack Carroll was locked up for two years and 11 months on convictions that the state's highest court finally ruled were no good, and now he's getting a second chance with no guarantee of anything. We'll just wait and see what happens.