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The View From Here

Jack Carroll loses gamble with justice

By CARL STROCK

Jack Carroll, the Troy man whose cause I have championed for the past year and a half, was found guilty yesterday of six counts of sex abuse, after a new trial in which all the available evidence was heard.

This followed the reversal of his earlier conviction and the dismissal of the most serious charges against him.

The remaining charges were of having sexually fondled a girl who is now 17 years old on six separate occasions when she was between the ages of 9 and 13.

The evidence against him was the testimony of the girl herself, which, as I previously reported, was emotional enough, since she cried throughout it, but sounded rehearsed to the point of being memorized and besides which she could remember next to nothing. It was supported, if you can call it that, by the testimony of the two cops who made the arrest - Steve Weber of the Troy Police Department and Ed Girtler of the state police - both of whom made clear on the stand that they did no investigation but simply took (probably encouraged) the girl's statement, tried to trap their man, failed at that, and then arrested him anyway. All Carroll's denials they took as admissions, and they testified accordingly.

That they were not laughed out of court tells you something about the criminal justice system right there.

The girl's testimony was further supported - if you can call it that - by a nurse practitioner who admitted under cross examination that two of her three "positive findings" of sex abuse were bogus. (The third finding was negated by a gynecologist from Albany Medical Center, who testified for the defense.)

And the case was supported, I guess, by a psychology professor from Union College, a professional witness, who said in effect that practically every pattern of behavior you can think of correlates with sexual abuse, including this girl's pattern of doing fine when she was supposedly being abused and then falling apart after she made her allegations.

When all the evidence had been presented and all the witnesses had been cross-examined I had even more doubts about this case than I had before, and I had plenty before.

So how did 12 random people off the streets of Rensselaer County come to be convinced beyond a reasonable doubt that Jack Carroll was guilty of something that seems so highly dubious to me?

I believe the credit or blame goes to Trish D'Angelis, the assistant district attorney who prosecuted the case with a singular fervor. The defense attorney, Mike Koenig, ran circles around her when it came to examining and cross-examining witnesses, but she ran circles around him when it came to making an emotional pitch to the jury.

In my experience, emotional pitches to a jury outweigh evidence any day of the week. She stormed and fumed and carried on like an avenging angel doing God's own work of punishing a sex monster, and even managed to turn a crucial tape-recording, which she

kept out of the first trial, to her advantage, using the Weber-Girtler approach of interpreting every denial as an indicator of guilt.

She even went so far as to use the accusing girl as a prop, positioning her in the front row of the spectator section, where she could sob in full view of the jury, during her closing performance.

Koenig relied on an unemotional recitation of facts, some- times very small facts, and on discrepancies in the testimony, also sometimes quite small, to try to create doubt - but without, I'm sorry to say, presenting any overall compelling story to compete with the diabolical tale spun by Ms. D'Angelis.

When the show was over, Jack Carroll and his close, supportive family knew he was in trouble, even though, in my view, Koenig had shredded the case against him. Koenig did not match the emotion and he did not match the drama offered by Ms. D'Angelis.

Upon being freed from three years of imprisonment a couple of months ago, Carroll turned down an offer from the district attorney to plead guilty to a single felony in exchange for being sentenced to the time he had already served, which would have set him free but with a permanent stain on his name.

The day before jury selection he turned down an offer to plead guilty to a misdemeanor. He told me he would not plead guilty to something he didn't do.

Now he is in the Rensselaer County Jail, his bail revoked, convicted of six felonies, awaiting a sentence that could add up to more than 20 years.

I have not been so dismayed with the jury system since the acquittal of O.J. Simpson.