

Tuesday, August 7, 2001

The View From Here

Carroll plans next appeal in sex case

By Carl Strock

In case you're wondering about Jack Carroll, the Troy man who was convicted of child sexual abuse, freed on appeal, then convicted again, even though the evidence against him was thin at best and blatantly false at worst, I can tell you that he's doing well under the circumstances.

Of course the circumstances are poor – being sent back to prison for 10 to 20 years when he could have walked free by pleading guilty to a misdemeanor – but all too often life is poor, I guess.

The good news is that he was recently transferred from the dungeon-like Clinton prison in Dannemora, populated by the worst of the worst criminals, to the more relaxed and less violent Eastern New York Correctional Facility in the Catskills.

I visited him there the other day and found him close to enthusiastic about being able to move around within the walls approximately like a human being.

“You wake up in the morning and the bars are still there,” he acknowledged, but day to day, it's a huge improvement. The guards are less belligerent, his fellow inmates less menacing, the whole atmosphere less oppressive.

He put on a brave face when he was sent back to Clinton after his second conviction, in January, but he allowed to me now that it was only a face.

“It was much worse than I let on,” he said. “I prayed to God: ‘I need a change, God, I'm not going to make it through this.’”

You may think after a second conviction he's washed up, legally, but in fact he is pursuing another appeal with the help a new lawyer, Robert Rosenthal of New York City, who has built a national reputation for fighting false accusations of child abuse, including the celebrated scandal of Wenatchee, Wash.

Rosenthal says he believes enough mistakes were made in Carroll's second trial to justify reversal of the conviction, which to me is stunning, since I figured Jack had his chance and lost.

The way I see it, the emotional weight of sex-abuse charges is such that anyone in his position has little chance. If you go into court accused of molesting a child, you'd better be able to prove you're innocent, or no jury is going to acquit you, and no judge is going to go easy on you, no matter how weak the evidence. Especially if you're up against a fire-breathing prosecutor who treats sex charges with the same quasi-religious zeal as inquisitors of another day treated charges of witchcraft.

I believe Jack Carroll was doomed as soon as a teen-age girl testified that he molested her – no matter how rehearsed her testimony, no matter how little she could add under questioning to what she had memorized, and no matter how obviously troubled she was. And even the nurse who examined the girl admitted under cross-examination that parts of her medical report were at the very least misleading.

“I didn’t get a fair trial,” Jack says now, wistfully. “A fair trial is the truth.” Jack Carroll is an easy-going guy, by the way, but he’s not so easy-going as to have charitable feelings toward the jurors who unanimously voted him guilty. “I have no forgiveness for them,” he told me as we sat in the visitors’ room at Eastern. “There was no way they could find me guilty beyond a reasonable doubt,” a conclusion with which I humbly concur. “I am not a hateful person,” he added, “but I’m very angry.”

No doubt I would be too if I found myself at the age of 46, having already spent more than three years in a maximum security prison, looking at another seven or possibly 17 years, for something that I insist I didn’t do and something that by any stretch of the imagination was not proven.

One of the things the new lawyer will be contesting, by the way, is Carroll’s new sentence, which by law is not supposed to be longer than the sentence imposed the first time around, if I understand things correctly. The first time was 8 1/3 to 25 years. Then, after the most serious charge against him was dismissed and he was retried on the lesser charges and convicted again, the new sentence was 10 to 20 years. That’s one thing that needs to be straightened out.

Perhaps you’re wondering, as I have wondered, if Jack regrets not having accepted the offer to plead guilty and get sentenced to the time he had already spent in prison, which would have allowed him to walk free right then and there, back in January. I asked him that, as I have asked him before, and he said, “Absolutely not. I’d be a free man, but I’d be incarcerated out there.”

It wasn’t just a matter of pleading guilty, by the way. The Rensselaer County prosecutor wanted him to do an allocution, as it’s called, before the judge, meaning he would have to spell out in detail the heinous acts he supposedly committed, and he says he would not stand in front of a judge and invent such stuff in order to satisfy a prosecutor, because he could never live with himself afterward.

Anyway, he’s now living his life behind the walls of Eastern, where at least there are not many slashings and the guards are halfway civil. Looking at things in the best possible light, he said to me, “If you’ve got to be in a max prison, this is the place to be.”