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The View From Here

Carroll looks again to be exonerated

By CARL STROCK

If you remember Jack Carroll, the Troy man who was convicted of sexually molesting a young girl, had his conviction overturned by the Court of Appeals, and then was re-tried and re-convicted, and if you wonder what's up with him now, I can tell you he is still in prison and has just filed an appeal of his second conviction.

His lawyer this time is a gentleman from New York City, Robert Rosenthal, who specializes in cases involving false accusations of child sex abuse and has had success in several high-profile cases.

He represented on appeal three of the 18 people convicted of sexually abusing children in Wenatchee, Wash., which was one of the more celebrated cases of zealous prosecutors, cops and social workers letting their fevered imaginations run away with them.

All his clients had their convictions reversed after they had spent several years in prison, and the remaining defendants have also been freed.

He represented a fellow in Florida, Grant Snowden, who was convicted of molesting children that his wife was baby-sitting for, and he got that conviction overturned in federal court after Snowden had served 12 years of a life sentence and the conviction had been upheld all through the state court system.

He represented Kelly Michaels of the Wee Care Day Care Center in New Jersey, who was convicted of 115 counts of sex abuse involving 21 children, and he got that conviction reversed too, after Ms. Michaels had served five years of a 47-year sentence.

In every case, he says, he looks for the manufacturing of evidence as a key to the guilt or innocence of the defendant, the idea being that if cops or social workers or district attorneys have to make stuff up, it's a good indicator that something is wrong.

In the Carroll case he's convinced, as I am, that there was plenty of that.

There was a nurse (wife of one of the arresting cops) who testified about anatomical matters in such a way as to incriminate Jack Carroll, but without documentation, without mentioning an infection the girl had that would have provided a ready explanation, and in contradiction to the testimony of a gynecologist.

There was distortion of testimony by the prosecutor in the case, Patricia DeAngelis of the Rensselaer County district attorney's office, in her impassioned closing statement to the jury.

There was testimony (by the nurse) and distortion (by DeAngelis) regarding "penetration" of the girl, supposedly by Jack Carroll's fingers, though there was no such testimony in the first trial.

There was testimony by two cops - Steve Weber of the Troy police and Ed Girtler of the state police - about how they could discern Jack Carroll's guilt in the folding or unfolding of his arms and the crossing or uncrossing of his legs, in such a display of pseudo-intellectual buffoonery that they would have been laughed out of court if there were any justice in this world.

"Admission by denial," was one of the key concepts of these investigators, who figured that every time Jack Carroll denied the charges he was actually admitting them, for someone astute enough, like them, to read the true meaning.

All this garbage and more was solemnly presented to the jury as if it had genuine substance.

Rosenthal bases his appeal on three main points, none of which are mere technicalities:

1. Testimony that Jack Carroll "penetrated" the girl was improper because the Court of Appeals had already dismissed the rape charge. He shouldn't have had to confront testimony regarding acts he was not charged with.
2. The testimony of a purported expert in child sex abuse was improper, since in one way it was unnecessary (in stating that a child doesn't always report sex abuse promptly), and in another way was prejudicial, since the purported expert gave the impression that everything Jack Carroll and the girl ever did, no matter how apparently innocent, was indicative of sex abuse.

This alleged expert was Eileen Treacy, a professional witness cut from the same cloth as Patricia DeAngelis - that is, a sex-abuse crusader - who was a key witness in the discredited Kelly Michaels trial also.

She is a part-time faculty member in the psychology department of Lehman College in the Bronx and in the Carroll trial introduced herself as a "Ph.D.-level psychologist," though in fact she is not licensed as a psychologist in New York state, as Rosenthal points out in his appeal and as I have confirmed with the state Education Department, though I did not know it at the time of the trial.

She may have a Ph.D. I don't know, since she didn't return my calls.

3. The two body-language-reading cops should not have been allowed to present their opinions and interpretations as if they were qualified experts in such a (non-existent) field but should have been required to stick to the facts, like any other witness.

In addition, Rosenthal pleads, Carroll's sentence of 10 to 20 years was improper because the low end of it is longer than the low end of his original sentence of 8 to 25 years, even though the most serious charge, rape, had already been thrown out.

As for what the chances of success are this time, I have no idea. The appeal goes to the same panel of five judges that turned Carroll down the first time around, back in 1999, and which got reversed by the highest court, the Court of Appeals.

Will they be more sympathetic this time? Or will they think, Look, buster, you got a second trial even though we didn't want you to have one and you got convicted again - so what do you want?

I bet on nothing.

Charges of child sex abuse are so grievous that I think no one wants to be perceived as soft on the accused - neither judge nor jurors nor anyone else. And this is what allows cops like Weber and Girtler, nurses like Jane Szary Weber, psychologists like Eileen Treacy and assistant DA's like Patricia DeAngelis to have as much latitude as they have.

I'll just wait and see, and I will keep my fingers crossed that someday, somehow, Jack Carroll will find justice.