

January 2, 2003

The View From Here

Carroll loses latest appeal on sex abuse

By CARL STROCK

While I was away on vacation I was dismayed to learn that the state Appellate Division turned down the most recent appeal of Jack Carroll, the Troy man who was reconvicted of sex abuse after winning his first appeal before the state's highest court.

Dismayed, but not necessarily surprised, since I sat through the oral arguments in October and was not heartened by the tenor of the questioning.

The judges seemed not at all sympathetic to the arguments advanced by Carroll's lawyer - arguments concerning the admissibility of certain testimony by purported experts - and not sympathetic to Carroll himself.

I was afraid they would say, Look, fellow, you wanted a second trial, and you got a second trial, and you were convicted again. So what more do you want?

And while they didn't say precisely that in their decision, the effect was the same.

They said it was OK for a nurse practitioner to testify about "penetration" of the supposed victim in this case even though the highest court had earlier ruled there was no such evidence.

They said it was OK for a crusading psychologist to testify about "offender conduct" and create the impression that Jack Carroll was such an offender, because she didn't specifically name him.

They said it was OK for two cops to testify about Carroll's "body language" (folding or unfolding his arms) being indicative of guilt, because the most nonsensical of it had been elicited by Carroll's own lawyer (in an attempt to show the cops as buffoons).

They even said it was OK for Carroll to have been sentenced to 10 to 20 years, with a longer minimum than his original sentence of 8 to 25 years, even though the most serious charge against him, rape, had in the meantime been dismissed.

So what's next for Jack Carroll and his family?

"Right now we are financially, mentally and emotionally drained," he wrote me from prison after getting the decision, "and while I cannot imagine how we're going to continue to fight, I also know the only way I'm going to lose is to stop fighting."

So he's going to keep fighting. He's going to go again to the Court of Appeals, though that will require the court's permission since the Appellate Division decision against him was unanimous.

For me it's frustrating to follow the legal minutiae of the case because none of it gets to the heart of the matter, which is simply whether or not Jack Carroll sexually molested a young girl on six different occasions over a period of four years.

And it certainly doesn't get to the question of how the case was investigated - or non-investigated - by both the Troy police and the state police, how a nurse practitioner fudged a medical report, and how a firebrand prosecutor portrayed to the trial jury Jack Carroll's every protestation of innocence as evidence of his guilt.

I believe all these things should be reviewed, but I don't see how it's going to happen.

Jack Carroll, for those who have forgotten, could be a free man now if only he had agreed to plead guilty to a misdemeanor. Insisting on his innocence, he remains locked in Greene Correctional Facility.