

April 3, 2003

The View From Here

## **Carroll loses last chance at state level**

By CARL STROCK

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I'm sorry to report that the state's highest court has denied Jack Carroll the right to appeal his second conviction for child sex abuse.

George Bundy Smith, the judge who handled the request, denied it without comment or explanation, which is how Court of Appeals judges do things. So you can conjecture for yourself what the thinking might have been.

The denial is the end of the state process, as I understand it, for this man who was convicted on the basis of dubious testimony and flimsy evidence.

Carroll's lawyer, Robert Rosenthal of New York City, assures me, however, "It's not over. Carroll will take whatever step is appropriate to take next, and we'll continue this through the federal courts."

Specifically, he talked about seeking a writ of habeas corpus on the basis that Carroll's right to due process was violated in his second trial with all the questionable testimony that was admitted.

"The state cheated to get him convicted," he said, and of course I agree with that assessment, the reference being not to the state itself but to the Rensselaer County district attorney's office representing the power of the state.

Carroll was first convicted in December 1997 in Rensselaer County Court of raping and sexually molesting a young girl and was sentenced to 8 to 25 years.

The conviction was overturned by the Court of Appeals three years later, after Carroll had spent that time in a maximum-security prison; the rape charge was thrown out; and a new trial was ordered on the lesser charges.

A few months later he was convicted again of the lesser charges (sexual abuse) and was sentenced to 10 to 20 years, meaning he was no better off than before and maybe a little worse off, with a longer minimum sentence.

He could actually have walked free before the second trial by pleading guilty to a misdemeanor and accepting as his sentence the time he had already served, but, maintaining his innocence, he refused.

He has now been in prison more than five years, even allowing for the couple months of freedom he enjoyed after his first victory, and if a federal court doesn't intervene he can expect to spend a large part of the next 15 years locked up.

For a man 48 years of age--an ordinary fellow who ran a marina and coached hockey and has a loving and supportive family -- that is an unhappy prospect, and I can't tell you how discouraging I find it myself.

Jack Carroll, in my estimation, got railroaded by a team of zealots -- cops, nurse, psychologist, assistant district attorney -- who have worked together on a number of similar cases in Rensselaer County and who look for convictions before they look for the truth.

That no court so far has been able to undo their work does not give me great confidence in our criminal-justice system.

Jack Carroll is in Greene Correctional Facility, in Coxsackie, in the much the same pickle that people accused of witchcraft were in 400 years ago, as far as I can see - meaning he's there because the charge alone was enough to convict him.

*The View From Here presents Carl Strock's personal commentary and appears on Tuesday, Thursday and Sunday. Strock can be reached at 395-3085. The opinions of the newspaper appear in editorials on the Opinion Page every day.*