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The View From Here

DeAngelis' misconduct nothing new

By Carl Strock

I see that an appeals court has overturned a sex conviction in Rensselaer County on the grounds that the prosecutor of the case, by her carryings-on during the trial, prevented the defendant from getting a fair shake.

The defendant was Thomas Levandowski of Hoosick Falls, one-time police chief of Cambridge, Washington County, who was accused and convicted of repeatedly raping a 10-year-old girl in his home with the connivance of his wife, and was sentenced to 50 years in prison.

The prosecutor whose conduct was called into question was Patricia DeAngelis, now district attorney of Rensselaer County, who at the time was an assistant DA.

This caught my eye not only because I had some little awareness of the Levandowski case, and some reason to believe he might not have been guilty, but also because it was Patricia DeAngelis who won the sexabuse conviction against Jack Carroll, the Troy man whose cause I have championed.

When I read in the Appellate Division's decision on Levandowski that "the prosecutor's misconduct during the course of the trial was so pervasive as to deprive defendant of a fair trial," I thought, well, I wonder how different it was from her conduct during the Carroll trial.

It turns out, on inspection, to have been not very different at all.

Summing up to the jury in the Levandowski case, in 2002, DeAngelis apparently talked about Levandowski's wife gazing at him in the courtroom during testimony on his behalf, and said to the jury, "It looked like they were a couple of newlyweds. I wanted to puke."

The appeals judges ruled that she was thereby "improperly impu[g]ning the credibility of the witness" and "expressing a personal opinion concerning the mother's credibility, which is patently improper."

No kidding, I thought.

I remembered DeAngelis' summation to the jury in the Carroll trial, in 2001, when she referred to the testimony of Carroll's teenage stepdaughter, the daughter of his girlfriend, whom she had asked if Carroll had ever molested her. The girl had said no, that he was a swell

stepfather, and so forth.

"She is such a liar," DeAngelis declared to the jury, without a scintilla of evidence to support the accusation.

And she continued, "Do you think in a million years if the answer to that question was yes she ever would have said it? Why on God's green earth would she, with a mother like that?" referring to Jack's girlfriend, also a defense witness, an entirely respectable middleaged woman with two children of her own who has never been accused of anything, by DeAngelis or anyone else.

It was a sorry thing, if you were there, but I didn't know if it was "patently improper" in a legal sense.

In the Levandowski trial, at the end, DeAngelis apparently mustered a group of supporters, including members of her own staff, along with the girl who was making the accusations, and placed them strategically in the courtroom, in view of the jury, wearing ribbons of support, which was something else the Appellate Division found fault with.

But she did the same thing at the conclusion of the Carroll trial, except for the ribbons. She placed Carroll's accuser with friends and supporters smack before the jury, where the accuser could dab her eyes in full view of those who would decide Jack Carroll's fate, and no one said anything about it.

In the Levandowski case, the appeals court said any one of the transgressions of courtroom protocol might not have been enough to invalidate the conviction, but "the cumulative effect of such conduct clearly prejudiced defendant's right to a fair trial."

The appeals court also noted, in the Levandowski matter, that "physical evidence of criminality was lacking and the People's [i.e. the prosecutor's] expert testimony was of questionable value," which again didn't sound very different to me, except that in the Carroll case much of the expert testimony was not only of questionable value but was downright laughable.

Now, I do not want to represent that I am either a friend or defender of Thomas Levandowski. I have never met him, and I did not attend his trial. And I note that apart from the now overturned conviction on the rape charges, he separately pleaded guilty to a charge of possessing child pornography, at a later time, which does nothing to enhance his credibility or his standing - though clearly guilt of one of those things does not necessarily mean he's guilty of the other, and in any event I guess he's entitled to a fair trial.

As for the standards by which Patricia DeAngelis pursues these sex cases, I note that she got a grand jury to indict Levandowski's wife, Sharon, on multiple felony charges of sexual outrages, including physically participating in rapes of the 10-year-old girl and also of photographing or videotaping her husband having sex with the child, but

when it came time to produce the evidence, DeAngelis dropped those charges and allowed Mrs. Levandowski to plead guilty to one token misdemeanor of child endangerment having to do with medical records and take three years of meaningless probation, as a face-saving way out.

That reminded me of her offer to Jack Carroll on the eve of his second trial. She offered to let him plead guilty to a misdemeanor too and walk free with the time he had already served, but Carroll, in his pride, refused.

DeAngelis then went into full theatrical mode and won the conviction, and Carroll got 10 to 20 years.

Levandowski for his part is doing four to 12 years on the child pornography charge so remains in prison despite the overturning of the rape convictions.

We must now see if DeAngelis takes him back to trial and gets a fresh conviction, as she did with Jack Carroll after his first convictions were also overturned on appeal.
