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The View From Here

DeAngelis logs two more losses

By Carl Strock

I see that while I was on vacation, Patricia DeAngelis, district attorney of Rensselaer County, suffered a couple more reversals at the hands of the Appellate Division of state Supreme Court, both of them in the kind of sex cases to which she brings such stirring enthusiasm.

In the first case, which she herself prosecuted, the appeals judges ruled that at trial she "repeatedly stray[ed] beyond the bounds of permissible conduct," that "errors permeated [her] opening statement, presentation of proof and continued into summation," with the result that the "defendant was deprived of a fair trial."

The defendant was one Robert S. Gorghan, accused of raping and sexually abusing the 21-year-old daughter of his girlfriend, beginning when the girl was 8.

Among other things, DeAngelis strongly implied to the jury that Gorghan used a gun on the girl, even though he had no gun until two years after the last reported incident. She "provided her opinion as to the credibility of witnesses and repeatedly commented upon matters not in evidence," the judges said. And she spent more time "discussing and detailing uncharged crimes and bad acts than the crimes for which defendant was on trial."

Result: Gorghan's conviction is overturned, and his 12 1/2-to-25-year sentence is voided.

If the people of Rensselaer County want him locked up, they will have to go to the trouble and expense of trying him again, the right way.

In the second case, which was prosecuted by DeAngelis' assistant, Joel Ablove, the appeals judges found that an alleged rape victim's report to a friend two months after the supposed incident did not qualify as a "prompt outcry" as required by law.

The defendant in that case, Christopher M. Allen, was 16 years old when he supposedly forced himself on a 15-year-old female friend - though the boy denied that any such thing happened.

The judges found that the prosecutor's statement to the jury that the boy had failed to show why the girl would lie "improperly attempt[ed] to shift the burden of proof." That is, it put the defendant in the position of having to prove himself innocent, which in my limited experience is not unusual with allegations of sex crimes.

Result: Allen's conviction is reversed, and his 25-year sentence is voided. Again, if the people of Rensselaer County want him locked up, they will have to do it the right way.

These reversals follow the reversal last summer of the conviction of Thomas Levandowski on similar charges of repeatedly raping a young girl in his household, which was another spectacular case won by the fiery Ms. DeAngelis.

There the Appellate Division found "the prosecutor's misconduct during the course of the trial was so pervasive as to deprive defendant of a fair trial."

Rather than try Levandowski again, DeAngelis dropped all the felony sex counts

against him and accepted a guilty plea to some non-sex misdemeanors, which was of course quite a comedown.

Readers with good memories will understand that I am interested in the career of Patricia DeAngelis and particularly in the sex convictions she obtains because it was she who successfully prosecuted Jack Carroll of Troy for allegedly molesting a young girl, which is a case that I have been much interested in and about which I have grave doubts.

You might have thought I was too committed to Jack Carroll and could not view his case objectively, but I hope you will agree that when three other sex convictions get overturned, tried in the same court, prosecuted by the same district attorney's office, and appeals judges write about a pervasive pattern of misconduct, as they did in the Levandowski case, then maybe I'm not imagining things.

As for whether the Albany Law School Alumni Association might want to reconsider the Outstanding Young Alumni Award that it bestowed on Ms. DeAngelis a few months ago, I don't know. In one way I guess you could still say she's outstanding.

As for who presides over these trials in Rensselaer County Court and allows DeAngelis to engage in tactics that are later declared improper, that is Judge Patrick McGrath, who also presided over Jack Carroll's second trial and countenanced what I perceived as the turning of evidence on its head.

It was he who in the Gorghan case declined to declare a mistrial after DeAngelis' improper opening speech to the jury, and it was he who in the Allen case improperly allowed the complainant's two-month-old report to be considered a "prompt outcry."

It was he who imposed the two 25-year sentences, just as it was he who sentenced Jack Carroll to 10 to 20 years, even though the most serious charge, that of rape, had been dismissed.

I will say that during the Carroll trial he struck me as very much possessed of what's known as judicial temperament, but the record finally begins to tell with him just as it begins to tell with DeAngelis. He's the one who lets her get away with what she gets away with, and in the Allen case the Appellate Division took note of his "clear error."

Word watch

Please notice that in discussing these cases I have been careful about saying the "boy," the "girl," the "allegation," and so forth.

The Appellate Division judges show no such circumspection. Despite voiding the convictions in both the above cases, thus returning the defendants to the status of innocent until proven guilty, they freely refer to the complainant in each case as the "victim" and to her allegations as "disclosures" in their written decisions. It's a fallacious way of speaking or writing known to students of logic as begging the question.

Students of logic, not to mention of the law, will tell you that a complainant is not a victim unless her complaint is true. If it's false, then the person she's accusing might well be considered a victim.

And if it's false, it's not a disclosure, either.

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.