

Courtroom drama unfolding in Goodland abuse case

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started showering with his 11 year old daughter, would shut the bedroom door with just himself and his daughter in the bedroom and she noted condoms disappeared. A journal she had kept from the age of 15 or 16 was admitted into evidence and she read excerpts from it to the jury. One excerpt related her frustration about her husband's neglect of the other children and his focus on one of their daughters.

She said she was watching television with another daughter on the couch one Sunday when the child concerned in this case approached her and said she wanted to talk. At that time she told her mother about the incidents and gave her the tape recorder and condoms which she had collected. Mrs. Moyer related some of the things she had heard on the tape and said her daughter later the same day gave her a black notebook which had a paper indicating a points and demerits system. The next morning she and two of her daughters took these objects to Pianalto. When her husband called that evening to be picked up from work, she alerted police, who took him into custody.

On cross examination by Mason, Mrs. Moyer confirmed she had asked her husband to pay more attention to the children. Mason reviewed testimony that indicated Moyer had then paid attention to the oldest child, but the younger children "created chaos" when they were included in activities. She confirmed that when she asked her husband not to shower with their daughter, he stopped. She testified there was no domestic violence in their marriage. She said he had first brought up divorce in 2007 when they had financial problems, threatening to leave. In 2008 she brought up the subject of divorce. Mason asked if she had filed for divorce, and she replied she had not.

Under further questioning by Mason, Mrs. Moyer identified a list which at a preliminary hearing she identified as a list of CDs in the same black notebook where the contract was kept. On re-direct from

the prosecution Tuesday, she further said she thought the list was created to make it look as if her husband and daughter had been doing something productive at the computer in the master bedroom when they were having oral sex.

A school counselor was called to identify a piece of paper brought to her by the alleged victim to pass on to law enforcement, and the document was entered into evidence. This was later identified as a "birthday list."

The bulk of Tuesday afternoon was devoted to testimony by the alleged victim in this case, who is still a minor. She related how her relationship with her father "started as a bonding thing" when she was 11 and developed into talks about sex "because I guess I was old enough to learn." Touching and being being taught "what a blow job is" followed. For sex acts her father used condoms "a lot" and would hide them. She testified she saved two condoms from those early years to help her prove to her mother what was happening. Asked why she did not show them to her mother right away, she said she had asked him if she could and he threatened to kill her if she did. She also kept a peach colored rag she had wiped lotion off that he used to apply to himself before intercourse with her.

She explained a complicated contract entitled "computer software" so that her mother would think it was about "computer stuff." At the top was the note "30,000 megabytes." She explained this was code for 30,000 points she would have to earn "doing sexual stuff with him." If she attained that goal she would not have to do it any more, she said. She indicated on the page the number of points assigned to each of five sex acts, the highest number of points assigned to an act was 50. Several sets of letters, acronyms for things that she should avoid, were assigned demerits of 100 points for each. Her father had drawn up the contract, she said, and had made her sign it in three places. Though the contract was drawn up shortly before she revealed the situation to her mother, she said the point

system and numbering system had been in place for a long time.

She testified the sexual incidents had taken place in most rooms of the house, the family vehicle and in the shed behind the house. She was shown the birthday list and said she had drawn it up on Feb. 19, 2009. It was a list of the sex acts she did to earn her birthday present, she said.

On cross examination by Mason she identified dates on her calendar. March 27, had the note "grounded" with sad faces. April 4, 2009, had the note "not grounded any more." April 7, had the note "got checked." That was the date she was examined by the nurse for signs of sexual abuse, Mason reminded her.

He asked if her father had discussed personal hygiene with her. She said he wanted her to shower more but she didn't want to because when she did he would be there or want to have sex with her afterward. When she didn't shower, he wouldn't bother her. She detailed how she had carried the condoms and peach cloth with her from Denver and where she had hidden them. She said she had hidden one of her father's three recording devices in the shed to document the abuse because that was the scene of some of their encounters.

Following her testimony and questions from the defense, Judge Showalter brought Tuesday's proceedings to a close.

Second day of trial

The first witness for the prosecution on Wednesday was Investigator Pianalto of the Sherman County Sheriff's office, who is assigned to the office of the County Attorney. He recalled his meeting with members of the Moyer family on April 6, 2009, identified for the record the materials they had brought to the meeting and outlined the steps that had been taken to investigate the allegations.

Copies of transcript of a recording from a digital recorder were handed out to members of the jury to help them follow along as the more than hour long recording was played. The recording had been collected by the alleged victim in the case during a meet-

ing between herself and her father during a session in the shed in October, 2009.

At the end of the morning Tricia Carney, LPN, MSN, RN, SANE of the Family Center for Health Care in Colby, described her procedure in examining victims of sexual assault and the training she had received to do specifically those types of exams. She said on examining the victim in this case she found two healed injuries which supported the victim's history of sexual abuse. During the exam she made photographs of the injuries.

After a lunch break, KBI forensic scientist Dennis McPhail took the stand and testified he had compared writing in a daybook known to belong to the defendant with handwriting of the contract document. He showed the jury samples from the two documents and said he had determined that it was "highly probable" the author of the two documents was the same person. He testified he was "virtually certain" of his findings, but to be "certain" — the highest level of determination — he would have to have writing samples that contained the same words and phrases to make an exact match.

Following him to the witness stand was Kelly Robbins of the Western Kansas Child Advocacy Center in Colby. Robbins explained her methods of interviewing and recording interviews of sexual assault victims and a digital video recording of her interview of the victim was entered into evidence.

KBI bio-materials investigator Newman, who had testified about the property search Tuesday, returned to the stand Wednesday to testify that DNA testing had found the defendant's DNA on the inside of one of the two condoms submitted for testing and his daughter's DNA on the outside of that condom. No DNA had been recovered on the other condom. The defendant's DNA had been found on the peach rag which had been submitted for testing, but not the daughter's. He described the methods for gathering and testing various materials for DNA and what tests had been conducted with what results.

On cross examination he testified DNA testing did not tell when evidence had been left on an object.

Following a recess, the prosecution rested and Attorney Jeff Mason opened arguments for the defense of Steven Moyer.

First defense witness was a digital video recorded deposition of Merle J. Hodges, M.D., a physician specializing in OB/GYN at the Salina Women's Clinic. Dr. Hodges reported his medical experience, including examining victims of sexual assault. He testified he had reviewed the report of Nurse Carney and the photos she had taken during her examination of the victim.

He said he did not see the two injuries the nurse had reported in her findings, but had noted a separate injury from the photographs. He said there were many variables which affected tissues in female sexual organs, but if there had been frequent sexual activity, he would have expected a larger opening and less presence of hymen. On cross examination by the prosecution he admitted he had not examined the victim, only the photographs taken by Nurse Carney.

Following this testimony, jurors were released for the day.

Third day of trial

Witness testimony is expected to end Thursday afternoon or Friday morning. Closing arguments will be presented followed by jury instructions from Judge Showalter before the case is turned over to the jury.

The judge has continually cautioned the jury throughout the trial not to discuss the case and not to seek information about the case outside the courtroom.

The defense continued presenting their case on Thursday and Attorney Mason told the judge he expected to finish by Friday morning.

Following the presentation of the defense case the prosecution and defense will present closing arguments and Judge Showalter will instruct the jury before the case is turned over for deliberation.

City agrees to help sponsor Thunder on Plains Chute Out event

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Dechant asked if the event continues to be exclusive to this area.

Whitmore said it is exclusive in a 150 mile radius and within 75 days of the event.

Garcia said it was a good revenue producer for the city and made a motion to approve giving the group \$1,000. The motion passed unanimously.

In other business commissioners • Approved a 10-year contract with Kevin and Mary Zimmerman to maintain the city cemetery. The cost of the contract is \$44,165, and the contract includes a negotiated raise of about 2 percent each year.

Before the commissioners unanimously approved the contract Commissioner Rick Billinger, who was not at the meeting in December when the contract was discussed, said he has a problem with giving out 10-year contracts. He said he would like

to know what the actual cost would be if the city was doing the work.

Garcia asked how long Zimmerman had been doing the work.

Volk said she knew it was well before 1995.

Garcia asked what the cost was back then.

Volk said she was not sure.

Daniels said he thought it was about \$30,000. He said the contract has a six month termination clause included.

City Manager Doug Gerber said he felt it made financial sense to do this contract. He said he did some background checking and looking at paying a city employee and the equipment he felt it would be about the same cost for the city.

Billinger said when he looks at a 10-year contract that is a large contract, especially with the 2 percent increases.

"I do not have a problem with the work Kevin Zimmerman does at the cemetery," he said. "I have a prob-

lem with this long a contract."

Volk said she likes the long term contract because it gives the city continuity.

Gerber said he likes to have someone in this position who knows where the bodies are buried — literally — and what needs to be watched and handled at the cemetery.

Garcia said under the long contract if someone wanted to bid they would have to wait for a long time. With a five year contract the city would have a bit more opportunity if someone wanted to bid on this contract.

Commissioner Annette Fairbanks said the city has a person who knows what needs to be done, and she does not feel you can put a dollar sign on those things.

"If you want this bid we can do that without signing this contract," Gerber said. "If not we ought to go through with this."

"The only thing I did not like was a

10-year contract," Billinger said.

Daniels made a motion to approve the contract with Zimmerman, seconded by Garcia. The motion passed 5-0.

• Had a question raised by Garcia about a proposal from Larry Harper to handle the animal pick up for the city and county. Garcia said Harper had dropped off a proposal at his business that said he was interested in talking to the city and county about handling the animal control for both domestic and wild animals.

Dechant asked about the status of the dog pound contract with Kathy Schermerhorn of Paw Wash.

Gerber said the committee meets next week at 3:30 p.m. on Wednesday.

Daniels said it does not hurt to

check out the options.

Garcia said he wanted to bring the proposal to the commission's attention.

Daniels said he talked to Dr. Gary Smith who said the only person who talked to him about the pound was a county commissioner. Smith said he pays the electricity on the current dog pound.

Gerber said while the city needs to look at options it is time to get this done as it has been in limbo for seven months.

Fairbanks said she felt it was a separate issue from the pound contract. She said the committee was not talking about who would be picking the animals up.

"I see this as separate," she said. "I feel we have direction on how to handle the dog pound contract. We are going to get that fixed at our next meeting."

Billinger said Dr. Smith and the animal shelter volunteers have been taking care of the city for many years and have done a great job.

• Held two closed door sessions with the commissioners and city manager to discuss acquisition of real property. The first session lasted 15 minutes and the second lasted about 10 minutes.

The city commission is expected to be at the school board meeting on Monday to ask the city to sell 10 acres of the land behind the city well on Kansas Ave.



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