

Jury finds Merkt guilty of killing 3-year-old

But he's found not guilty on two counts of rape

By Anne O'Connor
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After deliberating 2½ days, a Scott County jury found Brian Merkt guilty of killing his fiancée's 3-year-old girl last year in the Shakopee farmhouse he shared with them.

Merkt, 23, showed no reaction as the judge read the verdicts Saturday afternoon. The jury found him not guilty of two counts of raping MacKenzie Bussiere and not guilty of two counts of first-degree intentional murder.

The families involved filled the courtroom, but their sobs were stifled. The judge and the attorneys had told them to show restraint in reaction to the verdict. The courtroom atmosphere had been acrimonious during portions of the trial, which lasted 3½ weeks.

"The jury made its decision, and it still doesn't bring MacKenzie back," said Tina Herdahl, MacKenzie's mother and Merkt's former fiancée.

Still, Herdahl's family said it was happy that Merkt will serve some time.

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SLAYING from B1 Man is found guilty in death of fiancée's daughter, 3

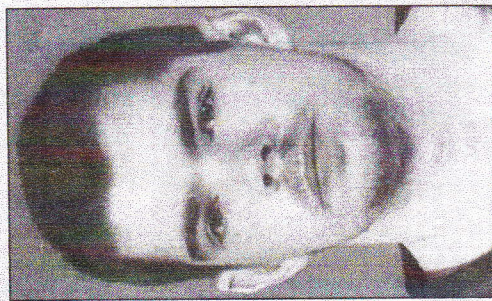
"We're kind of mixed up, [we have] mixed feelings," said Ron Jurisch, a great-uncle to MacKenzie. "We're glad that he was convicted; we're not sure that that was the correct count. There are no winners. If it didn't happen, that would have been the only way we could have won."

Merkt's attorney, Earl Gray, said he thought the jury settled on the second-degree murder charge as something that everyone could agree on. He was disappointed by the verdict and slammed his fist on the table when it was read.

"I was not happy. I hate compromises," he said.

Still, he said, he can't question that the jury worked hard and that ultimately, he accepts the verdict.

Scott County Attorney Tom Harbinson had painted a gruesome picture for jurors in his 3½-hour closing arguments Wednesday. He noted that MacKenzie was found covered with rug burns and that her vagina was bruised and swollen. He said that when she stopped breathing, Merkt called police to avoid suspicion in her death. Her blood and vomit stains were found in the crotch area of his jeans and



Brian Merkt



MacKenzie Bussiere, 3

long underwear. A trace of his semen was found on his briefs.

"Brian Merkt's guilt is etched in the flesh of MacKenzie Bussiere," Harbinson told the jury. He said that Merkt sexually assaulted her while her mother was shopping and that when she resisted he became angry and smashed her head against the wall or floor.

Gray suggested that MacKenzie fell down the one-story staircase, or was pushed by her 5-year-old sister, and awakened Merkt, who found her crying at the foot of the stairs, with soiled underwear. He said Merkt may have accidentally injured her vagina while cleaning her.

Gray said doctors found the girl with a very low body temperature, 83 degrees, because she wandered outside, where she may have received some injuries by being hit by a car. He noted that a defense medical expert testified that her injuries could have

been caused by a fall or being hit by a car.

Harbinson argued that the low body temperature was caused when Merkt washed blood and vomit off the girl in a tub of cold water before police came. He noted that lab tests indicated blood traces in the bathtub trap.

Merkt was taken into custody from the courtroom and will await sentencing in jail. He had not been in custody until the guilty verdict.

Ted Seeger, who is MacKenzie's grandmother's companion, said that it's been a very difficult year for the family and that although they're glad the trial was over, they are still grieving.

"It's not like we were looking for a victory here," he said. "Even if he had been convicted on all five counts, it wouldn't bring MacKenzie back."