

Victim's sister said Merkt had spanked toddler before

When Merkt was asked why Mackenzie's underwear had her blood on it, he initially said it might be grape juice, but later told a detective he used her underwear to wipe blood off her lip after her fall, Harbinson said.

Harbinson didn't specify a motive, other than to say that Tina Bussiere would testify she hadn't had sex with Merkt for three weeks before her daughter's death because she was pregnant with his child and had morning sickness.

Mackenzie's 5-year-old sister told police that Merkt spanked Mackenzie, causing bruises, which were noticed by relatives after Merkt started dating Bussiere in November 1995, Harbinson said.

When doctors examined Mackenzie at St. Francis Hospital in Shakopee they found her temperature was 15 degrees below

normal, indicating hypothermia, Harbinson said. The first police officer on the scene said it appeared that Mackenzie's face had been washed when he gave her mouth to mouth resuscitation and police found blood traces in the drain trap of the bathtub, Harbinson said.

He implied that Merkt had used cold water to wash blood stains off the girl, which caused her body temperature to drop.

Defense attorney Earl Gray conceded that Merkt spanked Mackenzie once, causing bruises, but said Merkt agreed to stop spanking thereafter. Gray said Merkt had been sleeping for about an hour after the girl's mother put her down for a nap and left to go shopping.

During that time, she could have gone outside, injured herself

overheated and Mackenzie usually slept in her underwear, which Merkt removed because they were soiled.

As to the perforated hymen found in the 3-year-old's vagina, Gray said: "We don't know how that happened."

He said a doctor will testify that the injury could have happened if the girl hit a toy a certain way as she fell down the steps.

"We do know he didn't do it. At least we don't believe he did it," Gray said.

Gray also said police found no trace of the girl's blood or hair on the walls. "There is no evidence that he ever whapped this girl's head against any wall," Gray said.

Brian Merkt is charged with first-degree murder and rape in the March 1996 death of the daughter of his fiancée. On Tuesday, the jury heard opening arguments - and harrowing details.

Scott County jury is told that 3-year-old was raped, died of injuries to brain



Mackenzie Bussiere

Testimony in the first-degree murder trial of 23-year-old Brian Patrick Merkt began Tuesday in Scott County District Court in Shakopee. Merkt is accused of murdering and sexually assaulting 3-year-old Mackenzie Bussiere, his live-in girlfriend's daughter, on March 9 last year in the home they shared in Shakopee. An autopsy revealed the girl died of severe head trauma, which could not have resulted from a fall down stairs as Merkt, who was home with the girl, told police. And a doctor who examined the girl said injuries to her vaginal area were consistent with attempted penetration.

Scott County Attorney Tom Harbinson, who is prosecuting the case, told the jury that the type of brain injuries the girl suffered could have been inflicted by an adult slamming a child's 37-pound body against a wall or floor.

He told the jury that vomit traces and the girl's blood were found on Merkt's underwear and the crotch of his long johns. The girl also had bruises on her head, arms, legs, buttocks and back.

Earl Gray, Merkt's attorney, told the court that while his client had spanked the girl once in the past, he had promised to not do it again. As to the girl's perforated hymen, Gray said it is not known how that happened. He also said police found no traces of blood or hair on the walls of the house.

Merkt is charged with two counts of first-degree murder, one count of second-degree murder, and two counts of first-degree criminal sexual conduct. Testimony is expected to last about two weeks.

Brian Merkt was in 3-year-old Mackenzie Bussiere's life for a little more than four months, but it's their last minutes together that are being reconstructed this week through the testimony of crime technicians, doctors and other witnesses.

Merkt is on trial in Shakopee, accused of raping and killing Mackenzie, who died of brain injuries that, a prosecutor said, could have been inflicted by an adult slamming the child's 37-pound body against a floor or wall. "This trial is about the last four and 27 minutes in the life of Mackenzie Bussiere, and it is about the man who ended it," said Scott County Attorney Tom Harbinson.

Merkt, 23, is charged with first-degree murder and rape in the death of Mackenzie, the daughter of his fiancée, Tina Bussiere, last March. He is free on bail.

Harbinson told the jury that traces of vomit and the girl's

dergaments, including the crotch of his long johns. He was living with Bussiere and her two daughters in a house on a Shako-pee dairy farm where he worked. The victim had rug burns on her chest, arms and face, as well as scrapes and bruises on her head, arms, thighs, buttocks and back.

Merkt has told police that the youngster had fallen down stairs while her mother was shopping. Then, he said, she vomited on him and soiled her underwear.