

April 8 AM Defensive Opening

9:20 a.m.

Earl Gray

Evidence to show Officer Shear (1st officer) came into house, observed B kneeling over Mc w/ telephone in hand. Also lumino testing showed blood on ~~the~~ steps. No carpet on bottom ~~of~~^{on} floor. Blood near steps. Blood in tub bec. took traps out first. Tested negative. Bathtub was dry.

B told Beesick Mc had fallen off chair before. B said Mc had pooped her pants. Mc missing 20% of blood bec. in her internal organs, not in the house.

Consistent = possible it could have happened this way or that way. Objection - overruled.

No idea what happened to Mc. Don't know.

Outside? B found Mc at bottom of steps. Not here to solve the case. Just here to tell what B told police. That's all we know.

B was 22 yr. from Boardman, WI. June is RN (family of 7). Randy works at Anderson Windows. ^(Security) B has 3 brothers: 21, 20, 12.

B's passion is dairy farming. NR HS 1992. Was Inst of Tech - dairy Herd Mgt. Worked on farms. Lived at home and in apts. Nov '95 met Tina. 7-9th grade together. Lived together off and on. Engaged in dec. Friends w/ N + Mc. Moved to Rochester. 12x60 mobile w/ Audrey H.

(1)

Also Morris. 6 people. January.
Neither found good job. John O'Laughlin
ad in paper. Beg of Feb. moved to Shokopper.
House disaster (front door broken, no screens
or storms, 70° 1st floor + 90° upstairs, toilet
on 1st floor overflowed). B worked from 4 am -
8:30 ~~pm~~ pm. 7 days/week, 2 days off/month.

Morris always home in January. B seldom
alone w/ kids - only when Tina went to store.
B + Tina made friends w/ Fedders (Rob + Robin).
Chores 11-12 am on Fedder farm. On March 9 they
planned Robin + Tina to go to mall. All 4 went
to Robin's, Mc had stomach problem so no
breakfast. Ate pancakes. Mc + N acting up so
decided not to go to mall. Took kids home!
B had lunch. Robin called and decided to go
after all. Tina dressed the kids. When Robin
came, no kid along. B playing with farm set.
Robin there 10-15 min. Didn't see/hear anything.
Tina came down, upset w/ Mc. bec wouldn't go to
sleep. Asleep or not ??? (Tina will testify)

14 steps. Steep N went up to Playroom. B
layed on bed to watch TV. B never went into
Mc room to check on her. Looked in - saw Mc
in underwear, appeared to be asleep. B
went to bed. TV on, loud. Didn't want
to sleep, but did for 1 hr. When awake,

Mc crying. Mc not in room but at bottom of steps. Had work clothes on, picked her up. She threw up. Only underwear on, poop in her pants. Assumed she fell down steps. Cleaned up poop and vomit. Panties, not diapers. Will see pictures of poop in panties. After cleaned up, vomited again - cleaned up again. Crying for mommie. Put her in blanket and layed her by him on couch. Slept again. Woke up - she's blue, did CPR. Thought she was OK - rushed to phone. Called 911. (Will hear) Told him what to do. Statements important. N come downstairs "What's going on." Police there. B on knees w/ phone. N on 2nd floor w/ windows up. N said "I can't come downstairs."

Medics, fire dept., police. Sean suspected B lying bec didn't see any vomit. Wrote "no way" in report. Called detective. B showed police around house. "Am I in trouble?" "No, procedure." Tina come home at 4pm. Then went to hosp. w/ Robin + N. N's statements don't say Mc fell down, but rolled down the steps. Continuously!

(3) Tina's family and Sean's family. N talked to Sean (will hear later).

Mc started bleeding profusely from the vagina and rectum. Police did not see that. Dr. Kirshner = not bee of injury, but when head injury, blood doesn't clot and pours out. Objection sustained

Mrs. will say 1) bleed from rectum.
2) body temp decreases rapidly.

83.5° under arm not accurate.

Might have been outside.

B wanted to go to hosp. Police questioned B again. Admitted he had spanked Mc once in Jan. too hard, but not since.

Arrested, put in jail.

Injuries (scratches, burns)

~~with~~ Death caused by head injuries (accel. or deceleration - blow to head) No fractures of skull. Hit something soft? Perhaps rug.

~~Hyp~~ Hymen injuries - don't know how it happened. Dr. Livitt possible fall down steps, injured herself on a toy.

B cleaned her up - not used to girls. Cleaned up feces. Did his best.

White jeans/pants found by door by trash bag. Poop on inside, back side.

Shirt - blood inside. Mc put clothes on and took off while B asleep. Objection

Evidence 1) blood on clothes.

2) 83.5° body

3) door wouldn't shut

Hypothermia victims take clothes off.
Proven.

Many cars around. Seized evidence BUT didn't see glue gun on for days later.

B investigated. Swab of penis. Negative for blood. Also fingernails. No clubs in house. No hair, blood against wall. Ripped carpet up. Furniture. No evidence wacked Mc head against wall. No idea how Mc got hurt. Objection overruled (giving their side).

Pattern of abuse - allegedly spanked. Hearsay from N + Mc. There was one spanking in Jan. June saw. B called mother bec knew too hard. Decided not to spank that way. Take time out in future.

Feb. 24 bruises. All people saw but no one reported to Police. N + Mc said B spans us too hard. Not one mark on N. Feb. 24 resulted when B not there. Mc fell against bunk bed and injured herself.

Tedious, long case. Keep open mind.
True decision. B did not murder Mc
or injure her in any manner.

10:10 am

Judge - Objections. Lawyers believe what
evidence will show. Facts are important.
Sequestration order. Independent testimony.

Ruth Jurisch

Great niece.

Exhibit 7 marked. Bench: Remark as #1.
Picture of Mc. Summer of '95. Showed to jury.
Mc liked to be happy, lively. Played to dolls.
Zoo animals, eat cotton candy. Feed
ducks w/ bread. Normal. Very intelligent.
Very active.

Richard John Goodspeed - Sheriff dept.

911 Operator 17 years. On duty 5am - 6pm

Tape marked as Exhibit 2. (Also radio-traffic)

Name, address, phone # on screen.

Employee of Health Span Ambulance also on tape.

Two officers: Sheen + Craig Robson also.

10:25

Played tape:

Bock: No pulse or respiration

Robson "Need a detective. The kid has a lot of bruises"

(6)

(2)

Gray: Got the name from the screen, not Brian himself. Approx 5 min or less. Health span there by end of tape?

Goodspeed: Yes DP dispatcher - est time of arrival

Gray:

Jackson site = 169 + 41

Goodspeed: didn't know if amb. had arrived.

10:43 Recess

11:00 am

Jim Hessler Health span dispatcher 18 yr.

Exhibit 3 = tape

Carl Bock Sheriff Dept 5 1/2 yr.

Called at 3:19 pm Crime scene investigator

Measurements → drawings Ex. 4 + 5

Stairs

7'9" ht. vertical 11'9" horizontal 14 steps

Ex 6, 7, 8, 9 Photos of house

house front back front front

Mc's window on #8 + 9

House to gravel road? Close to road. No front yard. Road used regularly?

TV on cloud.

Towels by couch, clothes by

front door trash bags.

To be recalled later.

(7)

(8)

11:45 am

Richard Kaly Police Dept 36 yr. Patrol Sgt.

N yelled "how are you?"

K How are you? Are you OK?

N "Fine," but I can't come downstairs - "when her sister was there."

Went in with oxygen. Mc Spread eagle, completely nude.

Ex 4. Marked X

2 rolled up washcloths, damp.

Ex. 10, 10 A

Ex. 11, A-D (by feet) L.S. wool shirt

slimey, wet mucous

Lunch

(One Jurist running high fever.)

1:05 pm

Dr. David Schmeling Ped Surgical Assoc.

U of M

BA microbiology + medical school

Experienced in trauma

Ch. Hospital, Mpls

Trauma = tissue injury, usually accidents

Assisted Dr. Desenko at Ch. Hosp.

Ex. 12-15

8x10 photos of Mc at 5pm

Exam included genitalia

Bruise inside labia.

Active blood blocked w/ gauze for picture.

Tears w/ blood coming out at 3 o'clock + 9 o'clock.

Hymen tissue swollen.

[Juror collapsed!
5 min break]

1:30 pm

Tom: Opinion about causes of injury to hymen?

Dr: Penetrating injury/trauma.

Problem w/ blood clotting. Coagulopathy. Has to be an injury to cause bleeding.

Tears were extended to edge of vagina. Ragged and irregular. Recent, within hours.

Examined entire body. #13 Face photo. (right side)
3 bruises, Tubes. Blood from ear.

↳ fingertip pressure from grabbing.

Ex. 14 left side of face. Eye lid, temple.

Probably a direct blow Objection. ~~was~~ Rephrased:
Consistent w/ struck by a hand? Yes.

Objection overruled.

[Juror collapsed again]

Juror feels warm (over-dressed). Ate too much for lunch. Functioning at 80%. Decided to adjourn for the day so won't lose another juror.

1:50 pm adjourned for day because of Juror's illness

Apr. 9

Day 3 - 9 AM

ER Physician - St Francis in Shakopee. Mar 9
at 2:40 PM the first heard on the radio Mc was in
Tues arrest. She arrived at ER. Pale, Hair was wet.
Skin clear. Unresponsive. BP 54 systolic (1/2
Normal). No respiratory effort. Had been
intubated in the field. Eyes - Pupils were dilated, ^{Nonreactive} _{Concomitantly}.
100 beats/min. Heart beat. Body temp Cool, blue +
pale. No response to stimuli. Glasgow Coma scale
15 is perfect score. 3 is lowest. Mc had a 3.
It was obvious

P₂ Black eye on L.

Bruise on Right

Bogginess to left temple - Black + Blue

Eccymosis - skin hemorrhage on L jaw / around eyes

Exh. 16-18. Bruise on L. shoulder.

Abdomen. Bloody nose both Nostrils.

Scrap injury to abdomen. Distended abdomen. (sticking up)

Arrow shaped cut.

Significant bruising on buttocks to hip. Numerous
straight line bruises.

Small puncture wound in ear. Hole in ear drum.

Couldnt draw blood - veins collapsed. Used deep stick
to get blood.

Took temperature rectally with probe. They looked
did a rectal exam. Inserted digit and dark blood
poured forth and spilled onto the table.

Couldnt insert probe for temp in rectum so he was going to do it vaginally. He opened the labia and there was a distinctly clam area. When he ~~up~~ separated the labia there was bright red blood coming from vagina.

Determined there were 2 distinct areas of bleeding. Took temp axillary (arm pit) 83° vs 98.6° normal.

Bruise over humeral head. (shoulder) on left.

Left arm. Left elbow.

Right forearm. Area denuded of skin. $2" \times 2\frac{1}{2}"$ - top of forearm. Older injury - burn on back of hand.

Right thigh & Left thigh bruise & left knee bruise

Finally lab came back: 9.5 gram hemoglobin which meant her blood volume was down at least 20%. Universal donor blood was used.

Gonorrhea / Chlamydia swabs used.

Beauty and the Beast towel arrived with the child. The nurse handed it to officer Share.

Warm fluids, radiant heat, warm blood, beer hugger, warm blanket - raised her temp 1-2 degrees. Called Nyls. Childrens Hosp called. They sent an ambulance. After that the helicopter arrived about 3:55 they left.

Heart rate still fast, $104/64$ B.P. (normal)

Diagnosis: 1) Closed head injury - Cornea

2) GI bleed - rectal (Gastro Intestinal)

3) Mult. Contusions - suspected child abuse

4) Mult. burns

5) Multiple abrasions (?) suspected rape

6) Hypothermia

7) Hypotension ($\downarrow$ B.P.)

Cross X.

ER Clean when Mc arrived.

Ralph Lauren towel used by hosp? No

- If jaw clenched. How do you open?

Ans: instrument between teeth

- Prior to intubation when she first came in to hospital

- Were scratches deep burns? "Yes"

- What time did she arrive? 2:46 PM? Yes.

- Did you monitor case? 4

- It was over 1/2 hour before she arrived? 4

- Hair wet - what do you mean? ringlettes stuck together

- Where? back of head

- Could that be caused from shock? Ans: People can sweat when BP is low but Mc didn't have sweat on skin

- Re: blood from rectum + vagina, there was no blood prior of Toxham - No

(12)

(21)

- Are Towels Hoop towels? "this is a head foam block.
Between it and head is a hospital towel.
- 20% blood loss caused BP to decrease, right? "right."
- 20% I stated is probably ~~under~~ underestimated.
- When a person has a head injury the blood fails to clot?
"I'm not aware of that reason."
- Do you know whether or not blood was coagulating?
Checking pro time - 23.5 seconds. Normal range is 10
so that means blood not clotting.
- When blood doesn't clot is there more bruising?
"They still need to be bumped."
- 84.5 is written over another number.
- Axillary Temp is usually 1 degree lower. "right"
- R.E. bleeding from rectum. Have you ever read a study
stating a head injury causes bleeding from rectum?
"Never heard of such a study"
- Don't want blood leaking out in E.R. room "True
for health of workers + so pt. gets all the blood she can."
- You describe an old, circular injury on ~~her~~ her R. ~~leg~~ wrist.
Could that be from a cast? "Possible"
- Has her skin dry? "yes it was"
- Time - "2:40"
- Spiking bag of blood. "you have a bag that's cold
from fridge. Put in blood warmer. you can
stick a needle into it. Must bleed the line to
get all air out. (get air out of the line).

Neil

(13)

(5)

Have you ever seen a bag spill blood? "Yes"

Any notes about blood dripping out? "No"

Did you see blood? "Don't remember that"

Were Teeth clenched when arrived? ^{No -} "She had a tube in mouth."

Muscle tone? "flacid - none at all."

Dr. James ~~Crowe~~ Crowe

Bd Certified Radiologist of Pediatric Radiology

CT scanner rotates all around the head. Tens of Thousands of Xrays go through the brain so images are of the brain rather than just the skull bone.

4:43 CT scan done. Accurately show brain tissues of the Exh. 22-28 CT scan slides.

23: Shows R & L. ventricles of the Brain. Space around the brain, Central Ventricular.

Shows that even though there is supposed to be a space where fluid is present all around the brain - there is no obvious distinction. Findings:

There is blood all around brain in ventricles.

Central ventricular should be larger than it is. It's only $\frac{1}{2}$ the size it should be. There's blood in ventricles.

No distinction between gray and white matter. This means the Brain Swollen.

Tells Kim brain is so swollen ^{brain} ~~AP~~ pressures closed

Sub arachnoid spaces are filled with brain tissue and there's Blood in left frontal scalp-

(14)

(20)

Rine separating 2 Hemispheres of the brain is filled
with blood.

Dx:

- 1) bleeding into scalp - L. front
- 2) swelling of brain
- 3) blood in spaces around the brain

Swelling of scalp and this combination is caused by an injury. This combination of findings mean injury. This was Reported to Dr. Desinco

Cross X

Skeleton survey - Conventional X-rays of entire skeleton, typically to determine old or new injury to skeletal frame. Could tell some fractures from past but not all if they had healed.

There were no old or new fractures.

CT scan abdomen ^{shows} distention of intestinal tract

There was much air or gas in intestinal tract.

Air gets in due to excessive crying or swallowing or acute distress. There was too much air + too much fluid in her intestine.

Swelling of brain caused because brain is loose in the skull.

witness: ~~Dr. [unclear]~~ ^{Helen} Brenningstall, M.D.

Board Certified Neurology - Pediatrics. He was called in to see if Mc was brain dead. There are certain Protocols for ~~for~~ certification that a person is brain dead.

- 1) Irreversible Cessation of whole brain function
- 2) Reflexes. - None
- 3) No evidence of Brain stem functions
- 4) Excluded Hypothermia

If ~~of~~ hypothermic the body Temp is warmed so the hypothermia isn't masking condition. No one is declared brain dead while cold.

2 Physicians must determine if a person is brain death.

In most states brain death diagnosis = death.

Brain Death = no possibility of the return of any basic brain functions.

Tests — Apply painful stimuli. Rub Breast Bones watch pt. To see if there is response. Pupils won't react to light. Put Cold water in ears. Back of Throat for gag / put finger down throat. If Breathes at all. He did all. No evidence of brain function in Mc. Severe, diffuse Brain injury was his finding.

Was Comatose from the time of her injury to the time when brain died. No lucid interval after she had head injury (she didn't wake up again)

* Sometimes a person will get a head injury and seem to recover but then will get steadily worse.

It is not reasonable to think Mc was ever lucid after her brain injury. It was too severe.

He  Easily saw 100 pt. with head injuries before this.

Pediatric Neurology.

Doesn't think she was ill in any way.

No evidence of Systemic illness (flu)

Brain swollen - goes into throat causing Vomiting.

* Earl Gray very impatient - irritated with this Jewish Doctor
Studies were done by Hitler in the 40's regarding dropping children
from buildings / heights while the children were alive. Gray referred to 40's. Tests
Many times - trying to rattle the Jewish Doctor but Doctor remained composed.
* This is my own comment and isn't substantiated.

Mc Couldn't have been walking after her head injury, Doctor testified.

Witness David Dasseao, MD.

Share holder in Anesthesia Associates.

Bd Certified: Peds, Anesth, Ped Critical Care Medicine

Contracted by ER at St Francis Hosp. regarding Mackenzie

Pilot + 2 Helpers to St Francis Hosp by Helicopter

Transport Nurse + himself. - 5 people in all.

He did a quick exam. Looked into her eyes

Concern: Hemorrhages at back of the eyes

Paploedema - optic nerves and retina were
pushed out.

Did ABC's

Breathing or being breathed for

Check saturations - level of O₂ in blood. (Oxygen)

Arterial circulation / B.Pressure.

Ø reflexes

Ø reaction to light.

She had a B/P + oxygen but brain wasn't working. He saw bruises, burns, abrasions on her body; some of different ages.

He ~~was~~ secured IVs + monitors.

Blood + Plasma - Bicarbonate

Seizure medications started right away.

Lunch

At Children's Hosp. they took her to CT scan. He went to scanner with Dr. Crowe. CT scan showed

Severe brain swelling. Concerns regarding rectal bleeding. No evidence of fx to bowel but some internal bleeding? Source of bleeding??

Back to Intensive Care. Reassess inj + treatment. Try to make brain shrink. If swollen brain chokes off blood supply, and so brain eventually dies. Once blood is choked off it is close to death.

Gave medication (Mannitol) to increase ability of blood to carry O₂.

He called Dr. Schmaling to assess internal organs.

Dr. Klatzko, to look for sexual abuse, Ophthalmologist to look at eyes.

Exhibits:

29-32 a. Mc Abdomen to arm

33-36

33) L arm - bruise 34) Arm w bruise elbow. burn on chest

35) L Hip - upper thigh bruise 36) L leg. bloody

18

- #33. Injury below left elbow - blunt trauma.
- #34. Left arm - underside with abrasion
- #35. upper part of leg. Bruises, scrape, older bruise
- #36. scraping abdomen, bleeding peritoneal, not a fresh bruise.

After CT scan Mc was placed on a ventilator.

At first she had blood clotting problems. They treated it and it got better. Could blood clotting problem cause her injury? "No".

Continued brain treatment.

Diabetes Insipidous developed. uncontrollable urination when pituitary gland stops working.

Only neuro function was agonal breath. (like hiccups) within 2-3 hours of arrival at Childrens she met the criteria for brain death.

Consulted with the family the next day after 2 Drs confirmed brain dead.

Disconnected respirator at 3 PM

Heart stopped beating 10 minutes later.

What caused bleeding in the bowel? There was evidence of injury. Blood due to small rent in the bowel. Because of coagulopathy, caused by the brain injury and because of the cold she bled uncontrollably.

Trauma to bowel amplified by coagulopathy.

Cause of death. Blunt trauma to the head causing irreversible brain swelling.

"Could these be from a fall down stairs?" objection.

Have you treated pts with stairway falls? "yes"

Opinion of Dr. Could have received these injuries from a fall of 7'ft 9" down stairs? objection overruled.

Opinion - "Constellation of injuries" No way could be caused by falling down a flight of stairs.

How often do you treat children for falls at Children's Hospital?

"How often do we see falls? Very rarely do we see children from falling as these are routine and don't require intensive care + x."

How you ^{heard} of Battered Child syndrome? Tom Had to withdraw question.

Should injuries be caused by her being in a struggle? ^{objection} Sustained.

Cross Exam

Why medication to prevent seizures? ^{Dr said seizures are} "Commonly caused by head injury"

- Teeth clenching? "Not commonly, a result of head injury."

- Vomiting? Common? "Early, yes?"

- Vomiting from brain injury? "When brain is banged around it can cause vomiting. Yes"

- Flu or other illness can cause Vomiting. Did you see flu symptoms? "No"
- Blood Clotting was impaired - How long had she had the Condition? "Unknown."
- Was a Catheter placed in her? "Urinary Catheter is placed for drainage of urine."
- There was one placed at St J. and they replaced with a temp. sensing catheter.

Bleeding, bruising around extruder

Sexual abuse

Dr. Glasgow took exam. of vaginal area at 8 PM

He is sexual abuse expert.

Earl - Are all injuries except injury to Humerus consistent with a fall down the stairs?

Dr: "Not comfortable answering that."

- Are some injuries caused by medical intervention - "Needle pokes"

- Is finger tip bruising caused by trying to open a jaw?

Dr, "No, Not consistent with opening a jaw."

- With Non-Coagulating blood you bruise easier, correct? "Correct"

- "You referred to abrasions as rug burns, did you not?"

Dr, "In front of the grand jury you described the burns on the elbow and belly."

Have you ever spoke to any Dr. who said you can get blood out of rectum as a result of head injury "

" No. It can cause Coagulopathy which can cause the bleeding ". There was no injury to rectum or bowel found post mortem that would have caused the bleeding. "

" CT scan / X-ray found no old fractures, right " Correct.

Have you ever gone out to the house and looked at the landing? Pictures of it? Pictures of outside of the house? " No "

Did you ever tell a family member all inj. with exception of hymen inj. Could have resulted from a fall down the stairs.

Does shock cause body temperature to go down? yes.
Tom- Would you expect body temp. to go down from 98.6 to 83 in a house at 70°. " I would expect that transition to be very slow "

Is an hour + 20 min. time period? Extremely difficult to reach that in that period of time. "

Is picture #18 consistent with stairway fall? " Unlikely "

Is #32 - abrasion on back of arm? ^{1 carpet} but it's hard to

Conceive this + this would result from same fall.

Re: Dr. Glasco's notes

Is part of your reasoning based on all the doctor's exams? objection - overruled.

Dr. E was clear this was a penetrating injury?

Clinically certain of sexual abuse? "Yes."

Penetrating means - hit? "Insertion"

Dr. Wasenko won't speak to Dr's conclusion. (Glasco's)

Any injury behind hymen? Not that I observed.

There were no vaginal wall tears? "Did not see any"

Nobody else did either? "Not that I'm aware of"

2:30

Jury dismissed by judge.

Conference regarding A. S.

Battered child question sustained based on the earlier decision regarding psychological testing. Profiles and studies of child abusers/molesters.

offer of proof by Tom. If he asks Dr. about battered child syndrome he would only be referring to State vs Orfio 511 NW 2ND 464 1994. Murder of 2 year old. Dr. testified the child was a battered child - given symptoms.

Tom stated he was going to ask about battered child syndrome as once the child is given that & the treatment is given accordingly.

No medical person can state what specific intent is. He (Tom) wouldn't be asking Dr. about intent.

E.G. Mn Supreme Court

Battered means intentional and he (Tom) wants to get that word in.

Judge: I allowed Dr. to state all injuries didn't result from a fall down the stairs.

Jury has already heard Dr. state all the injuries didn't result from a fall down the stairs?

Tom - Can I reintroduce this later?

Judge - we will look at it.

Earl - Can I ask another question?

Jury brought back in.

Exh. 37 Dr. Claskow diagnosed sexual abuse - certain.

There is an arrow. "Clinical based upon review of clinical history".

Exh. 37. Dr. Claskow's report entered.

★

3PM - Pat Meyers - St Francis - RN in Emergency.

3/9/96: 7 AM to 3:30 she was present when Dr. Molum took Vaginal + Rectal Swabs. Kim Wagner labeled them and she put them in her uniform pocket.

She turned them over to the helicopter nurse.
Pat Kahnke - St Francis - med tee in lab.

Called to ER to draw blood from Mc. She attempted to draw blood from R. arm but couldn't. Dr. put in a line and got the blood. He drew blood into a syringe. She put it into containers.

Earl Gray "Is that your signature?" No
Attempted to get blood after putting on a tourniquet.
No blood - no bruising.

Kay Rytte - Owns Rytte Co and works at St Francis.

When she got to work at 2:40 there were 3 pts. She went to trauma room. She assisted.

Exh #38: Beige towel. It was in E.R. She found it on the floor by Mc Kenzie's head. She found it around 5:00. Mc had been transferred at

She held onto it til she gave it to an officer. (gloves on → bag)
EG: How did it get moved from foot of bed to head? "Don't know"
Clean room after every patient? yes.

Pick anything else up? Plastic syringes.

Why did you give the towel to Police? other nurses told her to put it in a bag as it wasn't a hosp. towel.

Exh. 16 photo of Mc at St. Francis.

When they give blood where is the line? Normally in the arm,

Neil - you weren't in the ER before Mc? No.

There were items you picked up, right? Right. Normal discards from a Trauma.

Robin Lambrecht, Healthspan Transp. Paramedic. - RN

Rec'd a call at 2:12 PM. at Co Rd 42 + Vernon Ave

Code 3 to scene. Arrived at 2:25 PM.

Unconscious. 3 year old fell. wasn't breathing

Walked into the house. Police were doing CPR.

Mc was nude.

Heart monitor. Initiated airway. Found a pulse

and felt for a pulse. Normal sinus rhythm.

Positive pressure with ambu bag. Inserted tube

and squeeze the bag.

Cotton^{blanket} on board (short board). Folded blanket over her

as she was so tiny. Shoulders down covered by ambulance.

In ambulance. Tried to start IV. Uncovered her.

Left residence at 2:36 PM. 70-80° in back of the amb,

as there is a heater in back.

Tried to start IV but couldn't.

Noted burn on right forearm. Round burn - R nipple.

abrasions on left chest. Bruised Buttocks. No blood.

No response to pain

No gag reflex

Pupils fixed & dilated.

Glasgow coma scale - Score of 3

Arrived at Hosp at 2:40.

Upon dx exam noted blood in genital area,

Beauty & the Beast towel was at the end of the stretcher.

Came into the Emergency Room.

E.G. - Cross X

EG # No bleeding until ER when Dr. checked her? "Yes"

Referenced her EMT report.

- No bleeding at house? "Correct"

"At the house, injuries."

- In route to hosp ^{you} ~~she~~ didn't notice bleeding?

"No - I did not spread her legs"

- Do you remember testifying to the Grand Jury? "Yes"

- This question? 1-App 597 What observations did you make in route or on the scene? When you answered it -

"Noticed that in route to the hospital."

When asked about other observations you said none.

"Combined what she observed in route and at the hospital."

Did you observe this towel? #38.

One towel came in the ambulance. Beauty & The Beast

She doesn't remember the other towel.

How did she attempt to wake her - "by saying her name."

Tried X2 to insert IV.

Doesn't recall blood until at hospital.

She saw a towel at the house that looked stained with blood.

3.55 dismissed

Wednesday
APRIL 9, 1997

Metro/State

B
SECTION

StarTribune

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

By Jim Adams
Star Tribune Staff Writer

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 hour 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 blood were found on Merkt's un-



Mackenzie Bussiere

dergarments, including the crotch of his long johns. He was living with Bussiere and her two daughters in a house on a Shakopee 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.

Turn to TRIAL on B2

TRIAL from B1

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

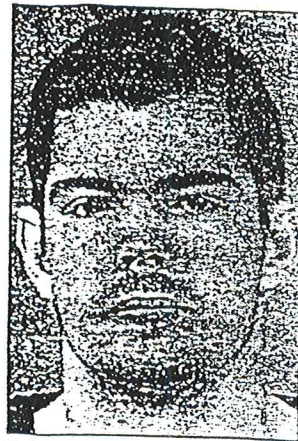
and become hypothermic, Gray said. He noted that the house was overheated and Mackenzie usually slept in her underwear, which Merkt removed because they were soiled.

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

Harbinson is expected to call dozens of police officers, medical experts, family members and other witnesses.