

Donna Yosts murder conviction overturned

Crystal McMorris | The Bay City Times By Crystal McMorris | The Bay City Times
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Appeals Court says certain evidence was barred from 2006 murder trial

A Michigan Court of Appeals panel has reversed the conviction of Donna A. Yost, 49, whom a Bay County jury found guilty of felony murder in April 2006 for the death of her 7-year-old daughter, Monique.

The decision was unanimous, with appellate justices E. Thomas Fitzgerald, Jane E. Markey and Michael R. Smolenski ruling that Bay County Judge William J. Caprathe "abused his discretion" and violated Yost's rights by allowing certain evidence and barring other evidence from trial.

"Because the identified errors were not harmless, defendant is entitled to a new trial," the appeals justices concluded. They also vacated Yost's sentence - life in prison without possible parole.

Specifically, the appeals court found Caprathe erred when he:

- prevented Yost's eldest daughter and an expert psychologist from offering testimony about Yost's limited intellectual capabilities;
 - precluded the defense from offering testimony of a toxicologist to counter expert witnesses presented by prosecutors who gave opinions on the amount and possible manner in which the antidepressant pills were ingested;
- and
- allowed prosecutors to elicit unlimited testimony about Yost's past involvement with Child Protective Services stemming from allegations of previous child abuse.

Monique was a first-grader at Washington Elementary School when she died in October 1999 after ingesting what was determined at autopsy to be a fatal dose of antidepressants in her Madison Avenue home.

Donna Yost's sisters, Dawn Smith, 54, of Au Gres, and Denise Briggs, 50, of Pinconning, were ecstatic at the news.

"When can I go pick her up?" Smith said. "It's awesome," Briggs said. "She's been really worried. She cries a lot."

Gail Rodwan, the attorney with the state appellate defender's office who handled Yost's appeal, said she's "pretty happy" with the ruling.

"This is a very long and detailed opinion compared to the average opinion," she said. "I was very pleased that the panel analyzed each issue so carefully."

Rodwan said that if the prosecutor decides to retry the case, or if he files an application for leave to appeal to the Supreme Court, then she or trial attorney Edward M. Czuprynski could petition Caprathe for an "appeals bond" that could free Yost while she awaits a hearing before the higher court.

"Now that her conviction has been reversed, it would seem unfair for her to sit in prison for months longer," Rodwan said. "This is one of the frustrations. She's spent years in prison, and now the court has said she was denied a fair trial."

Bay County Prosecutor Kurt C. Asbury said he has 56 days to file an application to appeal to the Supreme Court, and he plans to do just that.

"I am confident that they're going to reverse the Court of Appeals ruling," he said. "I believe Judge Caprathe's rulings were accurate, just and fair."

The case has already been to the Supreme Court once. After a Bay County district judge ruled there wasn't enough evidence to put Yost on trial shortly after Monique's death, a circuit judge ruled there was enough evidence, and the Supreme Court ultimately decided there should be a trial.

"We've taken this to the Supreme Court previously, and that's exactly what we're going to do again to get justice for Monique," Asbury said.

Asbury added that he was pleased to see the appeals panel reject several of Rodwan's arguments. The ruling affirmed the propriety of testimony at the trial from a medical examiner who discussed his belief that children can't commit suicide, testimony from witnesses who described earlier instances in which Yost's children overdosed on medication, and tape-recorded testimony from a former cellmate of Yost who gave a deposition before she was deported to Mexico.

Edward M. Czuprynski, who represented Yost at trial, said he's confident that a new trial, within the parameters established by the appeals court ruling, would end in acquittal.

"With the new evidence that I will be allowed to present, I am confident that a jury would find Yost not guilty," Czuprynski said.

Czuprynski said he promised Yost that he would defend her again, if given the chance, and he plans to keep that promise.

He said his assistant at trial - Jason Gower, who was a law student at the time and has since become a lawyer - has already agreed to join him.

"At the trial, I was up against two to four prosecutors at any given time," Czuprynski said. "This time, I will have another attorney at my table." Yost's trial was covered by Court TV as well as on local television and made headlines in The Bay City Times and across the nation.

The jury acquitted Yost of first-degree premeditated murder, but convicted her of first-degree felony murder - murder committed in conjunction with other certain felonies, in this case, first-degree child abuse.

Yost has been incarcerated at the Robert Scott Correctional Facility in Plymouth since shortly after her conviction.

On the day of Monique's death, Monique left home without permission, and when she came home, Yost angrily told her to take a nap on the couch. Around 6 p.m., when Yost tried to awaken her daughter for dinner, Monique was unresponsive. Monique went into seizures and stopped breathing and later was pronounced dead at the hospital.

Yost has denied her guilt from the beginning. Her defense team has speculated that the overdose may have been accidental or a suicide, that someone else may have given her the pills, or that a heart defect was to blame for Monique's death.

Yost's sisters say she's lost about 100 pounds while in prison, and spends her days exercising, doing craft projects and writing letters.

"Her oldest daughter is getting married next month," Dawn Smith said. "She wishes she could be there for that."

Czuprynski said he plans to host a "Welcome Home" party for Donna at his law offices once she's released from prison, "and the public will be invited."

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