Michigan Department of Human Services

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Tuesday, July 11, 2006

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Holland's statements to be tossed

Judge says cops didn't follow rules

July 11, 2006

BY JACK KRESNAK

FREE PRESS STAFF WRITER

The remains of Ricky Holland, 7, were found Jan. 27. His adoptive mother, Lisa Holland, is at right.

An Ingham County judge suppressed Monday some of Lisa Holland's statements to police, potentially damaging prosecutors' prospects of holding her accountable in the killing of her 7-year-old adopted son Ricky.

Circuit Judge Paula Manderfield ruled that the last 35 minutes of a 5 1/2 -hour video recording of Lisa Holland's statements about Ricky can't be used at her trial because police knew an attorney was at the jail to see her but continued questioning her outside of his presence anyway.

While giving Lisa Holland's defense a boost, Manderfield may have strengthened the prosecution's case against Lisa Holland's husband, Tim Holland, by ruling that a statement he gave to police can be used at trial.

Shortly before leading police to Ricky's body in a swampy area near Dansville, Tim Holland told police that his wife caused Ricky's death.

Prosecutors are seeking to prove that the couple acted together in killing Ricky and disposing of his body and that Tim Holland's statement, while not entirely accurate, shows he was involved in the crime.

The couple's trial on murder and child abuse charges is to begin Sept. 11 before separate juries. Frank Reynolds, an attorney for Tim Holland, said he would appeal Manderfield's ruling immediately to the state Court of Appeals. Prosecutors said they would meet today to decide whether to appeal the judge's ruling on Lisa Holland's statement.

The mystery of Ricky's July 2, 2005, disappearance began to unravel after Lisa Holland, 33, allegedly assaulted her husband Jan. 25 in their home in Leroy Township near Williamston. Tim Holland, now 37, went to the Ingham County Sheriff's Office that evening to report the incident. Detectives convinced him to consider helping them find out what happened to Ricky.

Lisa Holland was arrested and, at the jail the next morning, spent more than four hours with Sheriff's Detective Brian Valentine, apparently connecting herself to Ricky's death only in vague terms and giving police a location where she thought Ricky's body may have been dumped. That afternoon, Andrew Abood, a lawyer hired by her family to represent her, arrived at the jail complex in Mason for her arraignment on the assault charge.

However, Abood testified it took sheriff's deputies about 40 minutes to let him see his client and that during that time he suspected she was being interrogated.

On the videotape of the interview with Lisa Holland, a detective told her a lawyer was there to see her. She said she wanted to talk to him, but then Detective Sgt. Roy Holliday, now a lieutenant, asked if she wanted to keep talking until the lawyer came in. She said she did because, "I don't want to go to jail for something I didn't do."

For nearly eight minutes, Lisa Holland went on to say her husband killed Ricky. The interview stopped when Abood entered the room.

Manderfield ruled that the police questioning of Lisa Holland should have stopped when Abood arrived at the jail. The judge calculated that about 35 minutes of questioning occurred after Abood's arrival and she ordered that much of the end of the interview be suppressed.

On Jan. 27, Tim Holland, gave a statement implicating his wife in Ricky's death under an agreement that the statement could not be used against him if he told the complete truth.

That statement was not allowed by a district court judge during the preliminary examination because it was part of a plea bargain, but Manderfield said there was no plea bargain in effect and, because portions of his statement were false, it all can be used against him at trial. It cannot be used against Lisa Holland, however.

More motions are to be heard today.

*Contact **JACK KRESNAK** at 313-223-4544 or jkresnak@freepress.com*

Lisa Holland's remarks blocked by judge

Part of interview suppressed, but husband's comments can be used

By Kevin Grasha
Lansing State Journal
Published July 11, 2006

Statements Lisa Holland made to police at the end of a five-and-a-half-hour interview will not be used against her during the upcoming murder trial for her and her husband.

Also on Monday, a judge ruled statements Tim Holland made to police about how the Hollands' 7-year-old adopted son, Ricky, died can be used at trial.

Ingham County Circuit Judge Paula Manderfield cited U.S. and Michigan supreme court cases in making her decision to suppress the last 35 minutes of Lisa Holland's Jan. 26. interview.

It was during the last part of the interview that Lisa Holland's attorney was at the Ingham County Jail looking for her.

Once detectives knew her attorney was there, they should have stopped all questioning, Manderfield ruled.

Under questioning, Lisa Holland told Ingham County sheriff's detectives her husband might have strangled or suffocated Ricky the night of July 1, 2005. She also said Tim Holland went into the boy's room and later emerged carrying garbage bags.

Detectives have testified the last portion of the interview was the most relevant to their investigation.

Ricky's remains were found Jan. 27 in garbage bags in a remote area near Dansville; Tim Holland led police to that scene.

Jury selection in the Hollands' trial is scheduled to begin Sept. 11. The Williamston couple are charged with murder and child abuse.

Attorney testifies

In trying to convince Manderfield to suppress his client's statements Monday, Mike Nichols - one of Lisa Holland's attorneys - called co-counsel Andrew Abood to the stand.

Abood testified that on the day of Lisa Holland's interview, when he went to the Ingham County Jail in Mason, a deputy said she was unable to locate his client. Abood then walked to the nearby courthouse. When he discovered Lisa Holland wasn't there, he went back to the jail.

"That's when it clicked in my head that my client was being interrogated," he testified.

He finally entered the interview room, stopping all questioning.

"There's no question the Ingham County Jail interfered with my ability to see my client," Abood said.

Assistant Prosecutor Mike Ferency said any claims jail employees intentionally prevented Abood from seeing his client were absolutely false.

Brian Valentine, one of the detectives who interviewed Lisa Holland, testified that after he told her Abood was there to see her, "I asked her if she wanted to continue talking, and she said she did."

Manderfield said once detectives alerted Lisa Holland her attorney was there, the questioning should have ended.

But Manderfield also stopped short of criticizing detectives or jail officials for the time it took Abood to see his client.

Lisa Holland's attorneys were pleased by Manderfield's ruling.

"It is substantial," Nichols said, adding it was the first time in seven years practicing law that he has called another attorney to testify.

'Not 100 percent truthful'

Earlier in the day, Manderfield also ruled statements made by Tim Holland describing how his wife killed Ricky can be used against him at the trial.

On Jan. 27, Tim Holland told authorities Lisa Holland killed Ricky by striking him with a hammer, according to court records. He also said he disposed of the 7-year-old's body at his wife's direction.

Tim Holland's co-counsel, Frank Reynolds, argued his client had entered into plea discussions with prosecutors and understood that anything he said would not be used against him, or if it was, it could be used only to challenge his credibility.

Manderfield said Tim Holland was "not 100 percent truthful" during talks with investigators, which voided any possible plea agreement.

Prosecutors already have acknowledged that Tim Holland's statements cannot be used against his wife because they are co-defendants in the same case.

Contact Kevin Grasha at 267-1347 or kgrasha@lsj.com

Judge tosses part of mom's statement about Ricky's death

Karen Bouffard / The Detroit News
Tuesday, July 11, 2006

LANSING -- An Ingham County judge has thrown out a crucial 35 minutes of Lisa Holland's rambling, 5 1/2 -hour statement to police after the body of her 7-year-old was found.

In a blow to prosecutors, Circuit Judge Paula Manderfield ruled Monday that detectives interrogating Holland about her adopted son, Ricky, should have allowed her to meet sooner with an attorney.

Manderfield struck from the record the most damning portion of Lisa Holland's statements to police, including claims her husband, Tim, killed the malnourished boy. Ricky weighed about 55 pounds at the time of his death.
Lisa Holland's attorney, Andrew Abood, claimed jail workers wouldn't let him meet with her for about 40 minutes.

Today, Manderfield is expected to conclude three days of motion hearings in anticipation of the Hollands' murder trials.

Foster Success

Back from the streets, sisters get inspiration from one who's been there

THE FLINT JOURNAL
Tuesday, July 11, 2006
By Ron Fonger

GENESEE COUNTY - When two Flint sisters ended months on the run from the foster care system June 30, LaTisha Bowie knew it was time to make a house call.

Bowie, 27, knows about life on the street. She ran away while pregnant at 16 after living in a series of Flint foster care homes since she was 11.

Now the Flint woman, a teacher with the Genesee Intermediate School District, talks to other girls who have been taken from their families because of abuse or neglect or who have other problems, telling them to pursue their dreams no matter their circumstances.

Bowie's message to Natasha and Ashley Sawyers: I made it through some hellish situations. You can, too.

QUICK TAKE

Resources for foster children

Children in foster care face obstacles most kids don't, but there are programs to help them succeed in life. Among them:

The Youth in Transition program provides subsidized job placement, pre-employment training and self-esteem counseling for eligible foster-care teenagers.

Education and training vouchers provide post-high school education and training.

Teen Parent Program helps teen parents in meeting the health and developmental needs of their children.

Source:
Michigan Department of Human Resources

"When I talked to them, I let them know it was in their best interests to get back to school," said Bowie, a residential adviser who counsels students living at the Flint-Genesee Job Corps Center. "There's so many resources for them to do what they want to do."

Natasha Sawyers, 16, made headlines last month when she wrote to The Flint Journal and told her story about life as a runaway with sister Ashley, 14.

The heartfelt letter caught the attention of Genesee Circuit Judge Duncan M. Beagle. The family court judge wrote a response to the girls, assuring them they wouldn't be punished for coming back into the foster system.

Their story rang true to Bowie, whose father died when she was young - like the Sawyers' father - and whose mother was accused of failing to care for her because of struggles with schizophrenia.

"I said, 'You have to be your own voices. ... Tell the judge. ... You speak up,'" Bowie said of her meeting with the girls. "I was just trying to encourage them not to let their past" stop them from succeeding.

The Sawyers girls are doing well so far, said Jatasha Haralson, who has taken the sisters into her home on Flint's west side. The visit from Bowie helped focus the girls on what they needed to do to be successful, she said.

Bowie "was an inspiration to Natasha and Ashley," Haralson said in an e-mail to The Journal. "They were so attentive to what (she) shared.

"She told them of some of her own experiences and how she overcame obstacles and now has a college degree and a wonderful family.

"She definitely made a positive impression on the girls."

This fall, Bowie starts a new job as a teacher for emotionally impaired children in sixth through eighth grades for the GISD.

Before turning 18, Bowie lived on her own, taking care of her son while working two jobs and attending Baker College full time.

She qualified for one scholarship because she spent time in foster care.

At 19, she married, and she and her husband were homeowners by the time she turned 21. Bowie transferred to Eastern Michigan University, commuting from Flint to Ypsilanti for three years to complete her bachelor's degree.

By the time she graduated from EMU, Bowie and her husband had a second child.

Bowie said she understands the desire to run. Too many foster parents take in children because they want to supplement their income and aren't prepared to help, she said.

"None of my foster homes were the best place to be in the world, but it was better than being home," she said. "It was almost going from worse to bad. At least I didn't have anyone hitting me."

Will the Sawyers girls make it?

Bowie said they have one crucial thing going for them: placement with a family that cares about what happens to them.

"The streets have nothing good for anyone," she said. "If they find someplace where they are safe and stable," they can make it.

Already, the girls have appointments to enroll in school, Haralson said. Both girls are interviewing for jobs this week, each has a cellphone, and the family is looking for a minivan. Bowie said it took time for her to find a place where she felt safe and stable. She found it when she moved in with her future mother-in-law.

"I was just determined to give my son a stable life," she said of her work since that time.

Highfields youth program reopens

Lansing State Journal
July 11, 2006

ONONDAGA - Highfields Inc. reopened its Youth Opportunity Program Monday, but the first boys who will participate in it are not expected to arrive until this afternoon.

"The staff has been trained, the supervisors have received extra training and everything is in place," said Keith Groty, chairman of the Highfields board of directors.

The program, which can accommodate 24 youths, was closed in February following reports of mistreatment of three youths in the program.

The Youth Opportunity Program is a residential treatment program for boys 12-17 years old who have behavioral problems.

Life sentences for juveniles under review

A United Nations panel is expected to start reviewing whether life-without-parole sentences for juveniles in Michigan and 41 other states violate an international treaty on human rights.

Critics of Michigan's law will brief the U.N. Human Rights Committee later this week. Other issues being considered by the panel range from U.S. treatment of detainees in the war on terror to domestic concerns involving the death penalty and abortion.

Just over 300 Michigan inmates convicted of crimes committed before age 18 are serving a life sentence without the possibility of parole.

— *From staff and wire reports*

Tuesday, July 11, 2006

Lansing State Journal – www.lsj.com

U.N. panel to review Michigan's life sentences for juveniles

By DAVID EGGERT The Associated Press

LANSING, Mich. (AP) — A United Nations panel is expected to start reviewing whether life-without-parole sentences for juveniles in Michigan and 41 other states violate an international treaty on human rights.

Critics of Michigan's law will brief the U.N. Human Rights Committee later this week. Other issues being considered by the panel range from U.S. treatment of detainees in the war on terror to domestic concerns involving the death penalty and abortion.

Just over 300 Michigan inmates convicted of crimes committed before age 18 are serving a life sentence without the possibility of parole. A study by Human Rights Watch and Amnesty International shows Michigan has the second-highest rate of imposing life sentences without parole on juveniles.

Kary Moss, executive director of the American Civil Liberties Union of Michigan, said young offenders deserve a second chance, arguing they have less capacity than adults to understand the consequences of their actions.

Democratic-sponsored bills in the state Legislature would bar juveniles from being sentenced to life without parole and give those already in prison a chance for parole, but they are opposed by Republicans who control the House and Senate.

"We certainly hope Michigan lawmakers will take note when their own state is being brought up for international attention," said Moss, who will join representatives from other advocacy groups in Geneva to present findings on alleged U.S. human rights abuses.

But Rep. William Van Regenmorter, a Republican from Ottawa County's Georgetown Township who chairs the House Judiciary Committee, said the state's juvenile sentencing law is appropriate, arguing that crimes committed by youth are becoming more violent.

"It's appropriate for persons to have the time match the crime," Van Regenmorter said. "We're talking very serious offenses here."

The U.N. Human Rights Committee reviews the practices of the 149 countries who have ratified the 1966 International Covenant on Civil and Political Rights.

The United States, like the other 148 countries, must submit periodic reports with the committee detailing its compliance. Its 120-page report was filed almost seven years late.

Van Regenmorter said prisoners serving life already can petition the governor to commute or pardon their sentences. But Democratic Gov. Jennifer Granholm has been reluctant to use that power, unless for medical reasons.

Moss acknowledged that criticism by the U.N. panel brings no penalties beyond international scrutiny. The committee is expected to issue conclusions when it wraps up its session July 28.

On the Net:
ACLU of Michigan: http://www.aclumich.org
U.N. Human Rights Commission: http://www.ohchr.org/english

Teens face adult charges

Grand Rapids Press
Tuesday, July 11, 2006

PLAINFIELD TOWNSHIP -- Two juveniles are expected to be charged today as adults for their roles in an alleged armed robbery police say they committed with two other men Saturday night. The names of the juveniles, 15 and 16, were not released by police, who say they were among a group that entered Jet's Pizza, 5150 Northland Drive NE, about 11:22 p.m. and robbed the eatery at gunpoint. Jason Thomas, 17, and Rodney Lyons, 18, were arraigned Monday for their part in the alleged heist. All four were arrested shortly after the robbery.

Teen who wrote hit list in trouble again

Web-posted Jul 11, 2006
By STEPHEN FRYE
Of The Oakland Press

The young teenager who prepared a hit list at Holly High School last year has landed in new trouble, allegedly punching his mother and her boyfriend, the Oakland County prosecutor reported.

The incident occurred at the Davisburg home of Mark David O'Berry, who was a 14-year-old freshman when he was charged in 2005 with threatening terrorism for writing a hit list. He had no access to weapons, and it was accepted that he did not intend to carry out any attack or assaults.

But Prosecutor David Gorcyca said this new incident would prove a disappointment for lawyers and the judge who worked to clear his juvenile record.

"He made a fool of all of us," Gorcyca said.

A lawyer familiar with the case said O'Berry's previous case is not likely to be reactivated, but the former case could be brought up at sentencing if charges are filed for the assault.

"If a juvenile is still on consent probation and it hasn't been closed, then that can be brought back and used against them," said Melinda Deel, an attorney who handles juvenile cases. "Once they've completed probation, then the case is absolutely closed, and the court can destroy the records. In this case, Mark O'Berry did successfully complete probation."

Prosecutors were expected to present a juvenile petition charging O'Berry with domestic violence and assault and battery, Gorcyca said.

A request to leave a day early for a camping trip prompted a family argument Saturday that turned physical, Gorcyca said.

"They got into an argument," he said. "He punched and struck his mother several times in the face with a closed fist, as well as the boyfriend, who had tried to intervene," Gorcyca said. "It was that simple."

He said the mother and boyfriend both had minor cuts and bruises.

O'Berry, 15, will be charged as a juvenile. If he is convicted, he most likely will stay within court supervision, which could include anger management, counseling and psychological evaluation. "In juvenile cases, they are really trying to rehabilitate these kids," Deel said.

If the allegations are true, the case will be disappointing for officials who believed they found a positive solution to the dramatic news in March 2005, when the hit list and charges against such a young person dominated headlines.

Prosecutors agreed then to drop the juvenile record after O'Berry was analyzed and it was found that the threats were unlikely to be carried out.

Oakland County Circuit Judge Daniel Patrick O'Brien weighed the allegations of threatening public safety with the boy's claims that he meant no harm.

At the time of resolving the case, O'Brien spoke privately with O'Berry, wanting assurances that he would stay out of trouble.

O'Berry told O'Brien in August: "I don't want to be in trouble anymore. I don't want to be involved in the court anymore."

Gorcyca said he now questions going along with letting O'Berry onto the consent calendar, which allowed the criminal record to be stricken.

"Does a single outburst mean he was going to carry out his terrorism threats? I don't know," Gorcyca said. "We never know which juveniles will ever be serious about going and carrying out their threats."

Gorcyca, who received some criticism for charging O'Berry under the newly written terrorism laws, said questions about whether a threat at school is "legitimate or just an ill-conceived mistake" are difficult to answer.

"We don't have a crystal ball to predict the future," he said. "That's why we take each one seriously."

Bus attack victim gets protection from teen

However, students in fight can attend same New Baltimore school.

PUBLISHED: July 11, 2006
By Chad Halcom
Macomb Daily Staff Writer

A judge ruled Monday that she cannot stop a boy and one of his accused assailants from attending the same school this coming fall, but she can try to keep them apart.

The father of 10-year-old victim Chester Gala and the mother of a boy accused of attacking Gala on a school bus appeared side by side Monday as Macomb County Circuit Judge Tracey A. Yokich granted Gala's request for a personal protection order against the older boy.

The PPO bars any contact between the two children and forbids the accused attacker from visiting the Gala family home. But she declined father Eric Gala's request to ban his son's alleged attacker from Anchor Bay Middle School North, where both boys are students.

"I can't order him not to go to school if that's the school he's eligible to attend," Yokich told both parents in court. "But I can request that while they're in school that the (school) district keep them in separate classes, or to have their activities apart (from each other)."

Police and prosecutors have brought charges of aggravated assault against one teenage student and a misdemeanor assault charge against another, based in part on a school bus videotape from May 12 that shows the boys involved in taunting, shoving and later an outright physical attack on Chester.

The defendant child's mother, identified in Monday's proceedings as Patrice DeBose, said after the hearing that her son will abide by the PPO even though she does not expect him to return to Anchor Bay in the fall.

"I'm not moving, but (my son) will be going to another school in the fall," she said. "I don't know yet (where), but he will be."

The Macomb Daily is withholding the name of DeBose's son because he is a juvenile, and a defendant in a criminal proceeding. Officials expect that criminal case to return to court for a hearing later this month.

The videotape from a security camera mounted inside an Anchor Bay school bus shows two boys, then ages 13 and 14, taunting and teasing Chester Gala on their way home from Anchor Bay Middle School North. After finger-pointing and shoving, the 13-year-old stands up and punches the intellectually advanced Chester, also a seventh-grader, several times.

The exchange between boys, which lasts only for a few seconds, ends when the bus driver orders the 13-year-old to stop. Chester suffered a bloodied nose, a bump and red marks to his face, and complained of head pain.

School officials reviewed the videotape and interviewed the boys when they returned to classes the following Monday. Principal Tim Brisbois suspended the 13-year-old for an undisclosed term and the student did not return prior to classes being dismissed June 14 for the summer.

But Chester's father, Eric Gala of Lenox Township, said Monday he is concerned about the coming school year that begins in late August. He also said the school has been relatively uncooperative with him and won't return his phone calls.

"All I've really heard is from an attorney who told me they were very upset about the release of the videotape" of the beating, Gala explained. "I guess they could be afraid of talking to me because of a possible lawsuit, but that doesn't really make sense since from everything I've been told they have governmental immunity and I can't sue them."

According to a New Baltimore police report on the incident obtained by The Macomb Daily under the Michigan Freedom of Information Act, Chester told police he was looking behind him on the bus when one of the other boys told him to turn around. Chester replied that he didn't have to, and the older classmates began threatening him. Police said Chester tried to block the attacker's hands up near his face, before the teen shoved Chester in the face and mid-section, according to the report.

Eric Gala said Monday he wants his son to enjoy the summer and have a sense of security about the coming school year, and that Chester deserves a personal apology from one or both of the students involved.

"Today is the first time I've ever seen the mother of this kid in person, and we have yet to receive an apology. A media forum apology, or a public (statement) isn't an apology. I think my son deserves one," he said.

But Patrice DeBose, who also indicated Monday she hopes to reside with a relative outside of Macomb County soon, said she believes no amount of public or private apology would satisfy Gala.

Man to be tried in death of baby

Tuesday, July 11, 2006
By Scott Hagen
Jackson Citizen Patriot

A man accused of shaking his girlfriend's baby to death will head to trial for felony murder. David Monroe, 25, waived his preliminary examination in Jackson County District Court last week. He will appear for his arraignment in Circuit Judge Charles Nelson's court July 18.

Jackson police arrested Monroe on April 26, hours after he and his girlfriend, Tomi Romer, brought 4-week-old Jaylan Romer to Foote Hospital. They told hospital staff the baby was struggling to breathe.

Jaylan was flown to the University of Michigan Hospital in Ann Arbor that morning for contusions on her brain consistent with shaken-baby syndrome, officials said. Monroe admitted to police that night that Jaylan was crying and he snatched the baby from the bed and shook her until she went silent.

Jaylan survived on a life-support machine for a few days before doctors declared her dead on her 1-month birthday. Monroe has remained in jail since then without bond. In addition to the felony murder charge, Monroe is also facing a charge of first-degree child abuse. He faces up to life in prison.

Jerry Engle, Monroe's court-appointed defense attorney, could not be reached for comment.

Parolee accused of assaulting teenager

Tuesday, July 11, 2006
By Rex Hall Jr.
Kalamazoo Gazette.com

A 39-year-old parolee from Illinois was arraigned Monday in Kalamazoo County District Court on charges that he sexually assaulted a teenager, authorities said.

Shermaine L. Wright, who is charged with three counts of first-degree criminal sexual conduct, was arrested Sunday by Kalamazoo Department of Public Safety officers and is scheduled to be back in court July 20 for a preliminary examination.

Police on Monday declined to release details about the case, including where the alleged incident occurred or the age or gender of the teen. Detective Sgt. Karianne Thomas said Wright and the teen were acquaintances.

Police began their investigation early Sunday after the teenager reported the incident.

Judge upholds sentencing deal Mother begs for longer term for molester

Tuesday, July 11, 2006
BY ART AISNER
Ann Arbor News Staff Reporter
Editor's note: The News generally does not name victims of sexual assault or their family members. In this instance, the mother of the 9-year-old girl who was molested said she was comfortable with using her name to tell their story.

A Washtenaw County judge on Monday upheld her agreement with a convicted child molester and sent him to jail instead of prison, despite protests from prosecutors and an emotional appeal from the mother of the victim, who was 7 at the time of the assault.

Circuit Judge Melinda Morris sentenced James Robert Smith, 53, to one year in the county jail and credited him with 90 days for time served for sexually assaulting his stepgranddaughter between 2003 and 2004. Morris also ordered him to spend five years on probation with multiple conditions, including no drug and alcohol use, no contact with minor children, and completion of mental health and sexual offender counseling.

Smith pleaded guilty as charged to two counts of second-degree criminal sexual conduct before jury selection for his scheduled trial last month.

The charge, which does not involve penetration, is punishable by up to 15 years in prison. However, sentencing guidelines for the case, based on various factors involving Smith's offense and background, called for 29-57 months incarceration.

Smith was previously convicted of molesting another granddaughter, age 6, in Wayne County during the same time period. He served about a year behind bars.

Before Morris handed down her sentence Monday, the court heard a tearful plea from Aimee Smith, the victim's mother, who begged Morris to reconsider.

"I ask you, on behalf of my child, to give him a higher sentence and to not let him do this to another child," said Smith, whose daughter is now 9. "I ask you as a mother, please put this man away for a long, long time."

Morris acknowledged that she entered the sentencing agreement as part of the plea despite objections from the prosecutor and victim's family.

"This agreement has been severely criticized, if not condemned by the victim's mother and the prosecutor, and I don't quarrel with their outrage," Morris said in issuing the sentence. "But the court must take several factors into account and design a sentence that's appropriate."

Although she validated the seriousness of the crime and the devastating effects on the victim, Morris said the system is not designed for victims or their families to decide the fate of the guilty

party. She said she took into account several factors, including: Smith's lack of significant criminal history and no record of child abuse prior to the allegations that surfaced in Wayne County; his recent diagnosis for a bipolar disorder, which required frequent hospitalization; his struggle with illiteracy; and his use of cocaine late in life.

Morris also noted that other than an inadvertent probation violation from the Wayne County case, Smith had not shown her any reason to believe he would commit additional crimes. However, she warned, he would face the full 15-year sentence if he did.

James Robert Smith chose not to address the court prior to his sentencing.

His attorney, Carl Macpherson, said Smith's sister proactively sold her home that was located near a school and is now searching for another home away from schools or parks so that she can take care of Smith upon his release. He argued that Smith, at his age with a heart condition, would not survive prison and would not likely be paroled given the state's recent crackdown on inmates convicted of child molestation.

Washtenaw County Assistant Prosecutor Blaine Longsworth said there was no basis for a downward departure of the sentencing guidelines and that the prosecutor's office will strongly consider an appeal.

Aimee Smith, who now lives in Ohio, sat quietly as tears streamed down her face for the majority of the hearing and then left abruptly while Morris explained her decision.

"I'm just overwhelmed right now because he needs to sit somewhere for a long time," Smith said outside the courtroom. "I feel like this was a waste of time."

Several people inside the courtroom for other cases offered comfort and support for Smith in the hallway and openly expressed bewilderment at the sentence.

"How can you let a man who admitted doing this to more than one child get away with it?" said one woman who asked not to be identified because of a pending case in front of Morris. "He's gonna do it again."

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The school-felon list

Jackson Citizen Patriot editorial
Tuesday, July 11, 2006

It has been a stressful process trying to pinpoint Michigan school employees with a criminal record. A first list, released earlier this year, took the broad-brush approach, identifying school employees with an aggregate total of 4,600 crimes on their records. Unfortunately, the list was riddled with errors.

That prompted lawmakers and state bureaucrats, embarrassed by the glitches, to tweak the law, the process and the information. They finally released a purged and authoritative list in late June. It identifies 469 felons employed by Michigan's public schools -- 11 of them in the Jackson area. The new list was double-checked by the Michigan State Police. Even then, a few errors slipped through. The list was supposed to identify only employees with felonies on their records, but a Leslie woman made the list with a misdemeanor.

Everyone has an interest in an accurate list, for the last thing anyone should want is to damage the reputations of innocent people. But it would also be wrong to avoid tackling the issue out of concern for the possibility of error.

We're satisfied that a credible job has been done in producing the list and ensuring reliability. And we're pleased that the state now has a system for reviewing the ranks of school employees that previously were not being checked for the presence of serious offenders -- including sex offenders.

The law requires the immediate discharge of sex offenders, and that has largely been done already. In fact, there were only four sex offenders among the 469 people on the new list.
As for other offenders, their continuing employment depends on several factors -- whether they lied to their district at the point of hiring, how serious the offense is, how long ago, and whether it is the sort of offense that would pose a risk to children.

It appears that Michigan parents and children have a much more accountable school system than they did even a year ago. That is good news.

Taking on meth

Grand Rapids Press editorial
Tuesday, July 11, 2006

Michigan not only must keep up its fight to curb the manufacture and use of the highly addictive drug methamphetamine, but also deal with the aftermath of its production and use. A package of bills recently signed by the governor should help with the latter; just as laws passed last year restricting access to meth-making ingredients have curtailed home laboratories.

Bills signed by Gov. Jennifer Granholm include measures that require the state to develop clean-up procedures for sites contaminated by meth production, prohibit people from using Internet Web sites to give instructions to make the drug and add meth exposure to the definition of child abuse.

Meth is cutting a path of destruction across the nation because it can be cheaply and quickly made using common household ingredients. Cold medicine containing ephedrine or pseudoephedrine is a key ingredient that is easy to acquire. Meth recipes also are plentiful on the Internet. Michigan is among 37 states that have put up reasonable roadblocks to getting ingredients -- requiring retailers to lock up the cold products or sell them behind staffed counters. It might be an inconvenience for customers, but has paid dividends in other states and appears to be doing so in Michigan as well.

Meth lab busts nationwide plummeted more than 30 percent last year. The U.S. Drug Enforcement Administration (DEA) attributes most of the drop to restrictions on the sale of over-the-counter cold medicines. Meth lab seizures fell from 17,562 in 2004 to 12,185 last year. Michigan is in the first year of its cold medicine restrictions and meth-lab seizures have dropped sharply. The State Police reported 75 meth-lab seizures so far this year. That compares to a total of 341 recorded by the DEA last year.

In Allegan County, which has been ground zero in Michigan's meth battle, six labs have been seized so far this year. Last year, 53 were seized, according to the State Police. In Kalamazoo County, which had 94 lab seizures last year, only 15 have been reported so far this year. The meth laws passed last year seem to be doing exactly what they were designed to do.

That's good news. The bad news is that evidence indicates that meth manufacture is no longer confined to rural, out-of-the-way areas. It is migrating north and making inroads in Kent County. In May, a 16-year-old boy was arrested in Plainfield Township with meth-lab equipment in his vehicle; in Alpine Township a farmer discovered a man trying to steal the meth-making ingredient anhydrous ammonia from a tank on his property; and police raided an Oakfield Township home that had been converted into a meth laboratory.

State residents will be well-served if the new meth laws work as planned, because meth making and use is everybody's problem. Production of a pound of the drug can produce five pounds of toxic waste which can be extremely harmful, especially to children.

Accidental exposure to meth bi-products, chemicals and equipment can cause serious health injuries including burns, collapsed lungs and nerve damage. The price of cleaning up a site contaminated by a meth-lab is also costly -- from $2,000 to $5,000 per site. Laws that effectively deal with those issues, and with the easy availability of meth recipes on the Internet, will benefit everyone. The state is right to take steps to do so.

IN BRIEF

LSJ July 11, 2006

Domestic abuse shelters to get free phone cards

Attorney General Mike Cox announced Monday that $50,000 in phone cards will be distributed to domestic abuse shelters across Northern Michigan.

The donations are part of a $150,000 settlement with Talk America following a complaint Cox filed in March. His complaint alleged that the company failed to maintain and repair phone service at Park Place, a 100-bed assisted living complex in Kalamazoo.

"Phone service is a critical lifeline, whether for seniors in an assisted care facility or the uprooted victims of domestic abuse," Cox said in a news release.

Under the settlement, Talk America agreed to pay $50,000 to the state and distribute $100,000 in free phone cards to residents of the Kalamazoo nursing home and selected domestic abuse shelters.