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129th Year - No. 148

itter remorseful

got to live with it and it's the worst thing I've ever done.'

— F. JEFFEREY MARSHALL, Kassidy's baby sitter on his failure to report abuse

sidy's grandmother barred m the courtroom, asked daughter to tell the truth

NNIFER L. SAUNDERS emocrat Staff Writer

died on Nov. 9, 2000.

Kassidy died at 21 months old after what authorities have described as weeks of abuse. In medical photographs taken after her death, the toddler's face and head, torso, arms, back, legs and feet show indications of prolonged abuse.

Bortner's boyfriend, Chad E. Evans, 30, of Milton Road in Rochester, faces a charge of sec-

☆ Grandmother
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Craig Osborne/ Staff photographer JEFFEREY MARSHALL of Kittery shows the jury where he has observed bruises on 21-month-old Kassidy Bortner during the Chad Evans murder trial in Strafford County Superior Court on Thursday.

Defense laying blame on baby sitter for Kassidy's death

By JENNIFER L. SAUNDERS Democrat Staff Writer

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testimony, the only facts both sides seemed to agree on are that 21-month-old Kassidy was beaten to death and that no one sought medical attention for her until it was too late.

When it was his turn to take the stand, Marshall told the jury he is guilty of failing to seek help for Kassidy after seeing her many bruises and watching her steadily decline from a happy, outgoing toddler to one who was slow, quiet and withdrawn.

"Looking back, there's no excuse. But it was Jen's sister.

☆ Baby sitter

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this was a guy I did business 332-2200 with — we were friends with... Somersworth 692-3300 I've got to live with it and it's the 207-363-4413 ADVERTISING POLICY worst thing I've ever done," Marshall told the jury. Jennifer Conley, Marshall's

girlfriend, is the sister of Amanda Kassidy's mother, Bortner, and was the child's godmother and aunt.

number one, and number two.

Bortner was back on the stand prior to Marshall's testimony Thursday morning, continuing her allegations that it was Marshall who inflicted Kassidy's fatal injuries. Bortner showed virtually no emotion while testifying. She occasionally played with her hair or rocked in her

Evans, 30, watched Bortner from his seat with his defense team. The pair had lived together for about three months at his 191 Milton Road residence in Rochester before Kassidy's death. The pair again lived with murder. She testified she currently lives at Endicott Road in Weirs Beach and has been staying with Evans' sister during the trial. She said she only uses Evans' sister's mailing address because she can't afford a post office box since she has had to take so much time off from her job as a waitproceedings.

Answering defense attorney Alan Cronheim's questions, Bortner related the "good times" she and Evans had with Kassidy before the toddler's death.

"He actually taught her a lot He taught her to count. He taught her ABCs more than I did," she said of Evans and her 21-month-old daughter.

When asked if Evans ever played roughly with Kassidy, she testified he would throw her up in the air or swing her around by her legs.

"She would laugh. She liked it," Bortner said.

Bortner, 19, gave police a different description of Kassidy's treatment after her daughter's death in November 2000. She told police Evans abused the child by squeezing her face, lifting her up by the head and throwing her into the walls or tigated. of the recidence the

Kassidy to Marshall's Kittery residence for baby-sitting after the incidents Cronheim asked her about.

Under redirect by the state, Assistant Attorney General Simon Brown asked Bortner what she and Evans talked about during the eight months they lived together in violation of his bail.

"We discussed him going to jail and how it's not fair ... but we didn't discuss the details," she replied.

When asked why her story had changed only after living with together after he was charged Evans, Bortner replied, "It took me a long time to clear my conscience.

Brown then asked if Evans had helped her clear things up in her mind.

"Things became more clear when I started going to church and became a Christian. God's helped me. It really has," she said. Bortner also testified that ress in Tilton to attend court her new church bailed her out of jail when she was charged last month with endangering the welfare of a child in connection with her daughter's death.

New Hampshire State Police Detective Sgt. James White also testified during Thursday's proceedings. He described the investigations into Kassidy's death and into Bortner and Evans' living arrangement during the eight months after he was charged.

The state questioned White about the false information Bortner gave him about her whereabouts while she was living with Evans. Defense attorney Mark Sisti focused primarily on how well police investigated the incidents of abuse against alleged Bortner Marshall under oath. White maintained that any allegations made to police following Kassidy's death had been inves-

The courtroom was silent

hospitalization.

At one point as he recalled the change in Kassidy over time, he asked for tissues and wiped his eves.

Evans said Marshall described Kassidy as a "little bitch ... little jerk ... little bastard" and made comments that Kassidy was a "little retard, she acts just like her mother."

Recalling the events leading up to the day of Kassidy's death, Marshall said Evans picked Kassidy up at his residence on the afternoon of Nov. 8 and seatbelted her into the back of the car because he didn't have a car seat. Marshall said Evans did not put Kassidy in the booster seat that belonged to his own

Marshall then recounted three or four phone conversations in which Evans called him to incidents describe Kassidy either did something strange or injured herself.

"He said, 'The little bitch is acting weird again.' That's basically how he referred to her all the time," Marshall told Brown.

He went on to say Evans called him again to tell him Kassidy had been hit in the eye with a baseball while Evans, his son and Kassidy played baseball in the boy's bedroom.

Marshall said Evans told him, "It's like she's out cold. She's not there," and he replied Evans should take the child to the hospital.

Recalling the morning of Nov. 9, 2000, Marshall said Bortner brought Kassidy to his house and placed her on the bed in the bedroom.

He testified Bortner told him. "She looks like s-t, doesn't she? Look what Chad did." He said immediately left Bortner because she was late for work.

Marshall said he tried to get Kassidy up but the child did not respond, so he left her on the bed and put cartoons on the bed-

12:30 p.m.

Marshall said when he realized something was very wrong with Kassidy, he "tried everything" to get her to wake up, including an attempt at cardiopulmonary resuscitation and splashing water on her face. He testified he called Conley, Bortner and Evans asking what to do for Kassidy and could only reach Conley. Then, he called .

"It happened so quick ... This whole thing just happened so quick," he told Sisti.

"Some people in cases like this blame other people when they've done something stupid," Sisti said, referring to Kittery Police Detective Steve Hamel's testimony that Marshall told him Evans was responsible for Kassidy's abuse.

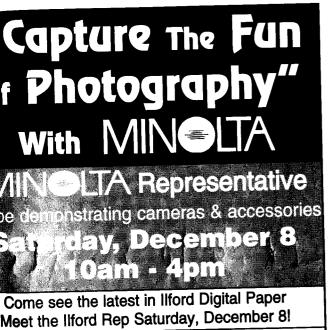
Marshall said he could not recall telling Hamel that, and Sisti then implied Marshall would have no way of knowing what killed Kassidy if he did not have something to do with it. Otherwise, Sisti said, Kassidy could have been sick.

"I know what got told to me the night before ... She came to our house with bruises. I don't think that's a common occurrence with the flu," Marshall replied.

During a break in the proceedings, Judge Tina L. Nadeau ruled in favor of a motion by the state to preclude Cronheim and Sisti from introducing testimony that Marshall first told police after Kassidy's death that he would be willing to take a polygraph and later refused.

Basing her decision on case law, Nadeau spoke of the unreliability of such tests. The Supreme Court has ruled polygraph test results are not allowed in the courtroom, and neither are questions related to whether a test was refused, Nadeau said.

Sisti said the defense intended mation to chow



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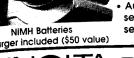
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around by her legs. "She would laugh. She liked it." Bortner said.

Bortner, 19, gave police a different description of Kassidy's treatment after her daughter's child by squeezing her face, lifting her up by the head and throwing her into the walls or corners of the residence the three shared in Rochester.

story to prosecutors on Nov. 5 of this year, however, after Evans violated his bail conditions by living with Bortner in the Keene and Brattleboro, Vt., area. She said she threw a mug at Evans during an argument in which he allegedly placed his hands around her neck. On the witness stand over two days of testimony. Bortner confirmed that Evans did bruise her daughter's face, but detailed multiple times when Kassidy came home from Marshall's residence with serious injuries. She testified that she and Evans repeatedly sent

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The courtroom was silent when the state first called Jeff She began telling a different Marshall to the stand after White's testimony. Marshall, standing about 6 feet tall and according to the defense weighing more than 200 pounds, spoke softly as he answered Brown's questions. He repeatedly denied ever abusing Kassidy, though he told both the state and the defense he spanked her once over her diaper because she had gotten into a bottle of window cleaner that was left out on the supposed to be taking care of ... kitchen table.

When asked whether he ever bruised Kassidy, Marshall said he did not. He testified he had seen bruising on Kassidy's face from the time she moved in with her mother and Evans in would "come and go." He also described a slow and steady move, which he said coincided with Kassidy's grandmother's sometime between noon and

and placed her on the bed in the bedroom.

He testified Bortner told him. "She looks like s—t, doesn't she? Look what Chad did." He said Bortner left immediately because she was late for work.

Marshall said he tried to get Kassidy up but the child did not respond, so he left her on the bed and put cartoons on the bedroom television before going into the living room to watch the coverage of the election.

Sisti, on cross-examination, focused on specific times for events Marshall related, on whether Marshall ever injured Kassidy and on Marshall's admitted lack of interest in how Kassidy was doing while she lay on the bed the morning of her death.

"This is the child you were You wouldn't let the condition of a lifeless 21-month-old baby interfere with the election?" Sisti said, showing Marshall a photograph of Kassidy's bruised face after her death.

"She came down from Rochester and that the bruising Rochester like that," Marshall said, and then admitted he had done nothing to check on decline in the weeks after that Kassidy before realizing her eyes had rolled back in her head

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graph and later refused.

Basing her decision on case law, Nadeau spoke of the unreliability of such tests. The Supreme Court has ruled polygraph test results are not allowed in the courtroom, and neither are questions related to whether a test was refused. Nadeau said.

Sisti said the defense intended to use the information to show Marshall was not fully cooperative with police.

"As the real killer he has refused to take a polygraph test," Sisti said.

Nadeau said an individual can still cooperate with an investigation and refuse a polygraph.

Based on the subjective and unreliable nature of the test, Nadeau said, there are many reasons to refuse to submit to it.

"I frankly don't blame him," she said.

Marshall had ended his responses to the state's questions by accepting culpability for not seeking help for Kassidy.

"You think that parents will do the right thing," Marshall said of his decision not to notify authorities of Kassidy's injuries in the weeks and hours before her death. "I definitely messed

When he began his crossexamination, Sisti took over where the state had left off with Marshall.

"You definitely did mess up, Jeff. You messed up very seriously on November 8 and even more seriously on November 9," he said.

"I told the truth and sometimes the truth hurts, but it had to be told," Marshall replied.

Sisti was scheduled to continue questioning Marshall when the trial resumed at 9 a.m. today.

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