

Testimony discarded

Witness refuses to answer defense questions

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DOVER — The testimony of a cellmate who allegedly heard Chad E. Evans describe abusing his girlfriend's 21-month-old daughter has been thrown out because of his refusal to be questioned by the defense.

Evans, 30, of 191 Milton Road in Rochester is on trial for second-degree murder and several counts of felony assault for allegedly beating Cassidy Bortner to death last year. Evans and the child's mother, 19-year-old Amanda Bortner, lived together for about three months before Cassidy's death.

Cory Merrill, who is incarcerated at New Hampshire State Prison in Concord after pleading guilty to a charge of felonious sexual assault, was Evans' cellmate when he was first held

at the Strafford County House of Corrections prior to making bail in November 2000.

Earlier this week, Merrill testified Evans was very depressed and made statements like, "Maybe I ought to just hang it up now." He said Evans told him he hit Cassidy with his hands and with a belt.

During cross-examination, Merrill stated he was innocent of the crime he pleaded guilty to under oath in April, and the testimony had to be suspended while legal issues were discussed. Although Merrill was granted immunity for the statement he made and his testimony was going to be allowed with special instructions, he refused to be cross-examined by Evans' defense counsel.

Because he would not be cross-examined, Judge Tina Nadeau told the jury,

his testimony "cannot be considered as reliable and admissible."

During Thursday's proceedings, defense attorney Mark Sisti cross-examined Maine State Police Detective Lance McCleish, who interviewed Evans at the Kittery Police Department about seven hours after Cassidy's death.

Jurors watched the taped interview in court Wednesday, and Sisti referred to it as he continued the defense strategy of questioning the police investigation and blaming Cassidy's injuries on her baby sitter, F. Jefferey Marshall.

"He came voluntarily and under the impression you folks needed his help," Sisti said, his hands on Evans' shoul-

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ders as he criticized McCleish for not allowing Evans to leave the Kittery Police Department when he first asked.

McCleish stressed that Evans said he understood his Miranda rights and was free to leave the department at any time. He testified he told Evans to "sit tight" because he had issues to check with his own sergeant, such as the location of other witnesses, before Evans walked out of the room.

Sisti asked why McCleish would not let Evans talk about Marshall in the interview, and McCleish repeatedly answered the first hour of the interview was open for any discussion — it was after he noted discrepancies in Evans' comments about Cassidy's injuries from those of Bortner that he began to suspect Evans had something to do with the toddler's death.

"He was minimizing the

abuse and, in fact, leaving out some of the abuse I was told about from the Amanda Bortner interview," McCleish testified.

Bortner told investigators Evans held Cassidy's head under water, grabbed her face, threw her into a door more than three times a week, choked her on one occasion and called her "stupid... a bitch... a brat," McCleish said. Evans' description of events.

McCleish explained, "was conflicting from what I had been given. When the two aren't matching up, it raises questions in my head."

Sisti brought up Evans' explanation during his taped interview of why he did not take Cassidy to a doctor when she was acting lethargic on Nov. 8, 2000.

"He's concerned with his own well-being instead of the child," McCleish said.

"He was concerned about being falsely accused," Sisti returned.

"And because of that, the child's dead," McCleish replied.

During McCleish's testimony, the court's high bailiff told friends of Evans to refrain from making facial expressions that were distracting to the proceedings. The three women had been whispering to each other about the testimony

prior to the bailiff's approach.

The state rested its case at the end of the day, following the testimony of Maine State Medical Examiner Margaret Greenwald. The defense is scheduled to call its first witness at 9 a.m. on Monday.

If convicted, Evans could face up to life in prison.

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