

# Testimony of Evans cellmate thrown out; state rests case

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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 Rochester and a former member of the Keene Board of Education, is on trial for second-degree murder and several counts of felony assault for allegedly beating Kassidy Bortner to death last year. Evans and the child's mother, 19-year-old Amanda Bortner, lived together for about three months before Kassidy'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 before 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 Kassidy with his hands and with a belt.

During cross-examination, Merrill claimed 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 debated. 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 Det. Lance McCleish, who interviewed Evans at the Kittery Police Department about seven hours after Kassidy'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 Kassidy'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' shoulders as he criticized Mc-

Cleish for not allowing Evans to leave the Kittery Police Department when he first asked to do so.

McCleish stressed that Evans said he understood his Miranda rights to refuse questioning or to legal counsel and that Evans was free to leave the police station 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 that the first hour of the interview was open for any discussion. It was after he noted discrepancies in Evans' comments about Kassidy'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 Kassidy'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, 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."

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 Thursday, following the testimony of Maine State Medical Examiner Margaret Greenwald.

Kassidy died Nov. 9, 2000, at the Kittery, Maine, home of her aunt, Jennifer Conley, and Conley's boyfriend, F. Jefferey Marshall.

Greenwald testified that Kassidy suffered blunt force trauma to the head and abdomen either of which could have been the ultimate cause of her death. However, she stated, Kassidy's body also showed she was having more than one pulmonary embolism as the result of at least one of her injuries.