

Evans appeal to be heard by state's highest court

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DOVER — The state's highest court has agreed to review an appeal of a Rochester man's conviction for the beating death of his girlfriend's 21-month-old daughter.

The Supreme Court accepted the case in September, four months after the appeal was filed by Chad E. Evans' former attorneys, Alan J. Cronheim and Mark Sisti.

The attorneys withdrew from the case after the appeal was filed, requesting that an appellate defender be appointed to represent their client. Based on Evans' incarceration and lack of employment, he met the financial requirements for a court-appointed lawyer.

Senior Assistant Attorney General N. William Delker, who prosecuted the case with Simon Brown, said the court's decision is anything but uncommon.

"It is routine for homicide cases to be appealed and it is routine for those appeals to be accepted," Delker said Wednesday. He said he could not recall an instance in which the Supreme Court had not accepted an appeal of a homicide case.

Evans, 30, was convicted in December of second-degree murder, second-degree assault, simple assault and endangering the welfare of a child in connection with the death of Cassidy Caitlyn Bortner.

The toddler's mother, 20-year-old Amanda Bortner, lived with Evans at his residence at 191 Milton Road in Rochester for about three months prior to Cassidy's death.

The girl was pronounced dead at York Hospital in York, Maine, on Nov. 9, 2000, after Bortner drove the toddler from the Rochester residence to the home of her aunt in Kittery and went to work.

In their appeal, Cronheim and Sisti asked the Supreme Court to review several decisions made during the trial. Specifically, the appeal questions whether the trial court erred in allowing certain statements Bortner made to a friend be admitted as evidence under the provision for "excited utterances."

Judge Tina L. Nadeau, who presided over the two-week trial in Strafford County Superior Court, allowed the statements to be introduced after listening to arguments by both the state and defense.

The appeal also questions whether the court "improperly focused the jury" on Evans' statements and whether the court erred in denying the defense's motion to dismiss all the charges against Evans.

In the appeal, Cronheim and Sisti contended that the charges should have been dismissed in light of testimony that Cassidy died at the Kittery, Maine, home of F. Jefferey Marshall; that the fatal injuries could have been inflicted during the time when she was in his care; that Marshall caused prior injuries to the toddler, and that he covered up injuries she received while in his care.

A significant portion of the testimony referenced in the appeal came from Bortner, who has continued to blame Marshall for Cassidy's death since the trial.

During the trial, Bortner backed away from statements she made to police the night of Cassidy's death in which she described Evans grabbing Cassidy by the arm or leg and throwing her against the walls or floor of the Rochester residence.

Bortner did testify to seeing Evans squeeze Cassidy's face with enough force to leave bruises and to witnessing Evans "roughly place" Cassidy in a corner so that she hit her head against a closet door. However, Bortner said she did not believe those incidents hurt Cassidy.

Bortner faces two charges of endangering the welfare of a child for allegedly failing to protect her daughter from Evans' abuse. Bortner intended to plead guilty in June, but changed her mind at the start of her plea hearing and opted for a jury trial. Her case is scheduled to go to trial next month in Strafford County Superior Court.

Kassidy died as the result of blunt-force trauma to the head and abdomen and was suffering from many other injuries at the time of her death, according to testimony by the Maine state medical examiner.

The appeal also challenges the sufficiency of the evidence presented to determine whether Cassidy's injuries were inflicted in Maine or New Hampshire.

On Dec. 21, after a two-week trial and more than 12 hours of deliberations, the jury in Evans' case handed down guilty verdicts on the charges of second-degree murder, five counts of second-degree assault, simple assault and endangering the welfare of a child. The jury acquitted Evans of one count of first-degree assault and one count of second-degree assault.

Evans was sentenced in April to a term of 28 years to life in state prison.

The Evans appeal is one of more than 30 on the Supreme Court's list of cases accepted in September for review.

A date for oral arguments in the appeal has not been set.

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