

Why the conviction of Chad Evans for the death of Kassidy Bortner was a Wrongful Conviction

(rev 10/11)

1. **The man portrayed to the judge, jury and the public was not Chad Evans.** Chad's attorneys recommended to him that he say nothing to the media, that he not testify at his trial and that he not maintain his innocence at his sentencing. His attorneys presented only one witness in Chad's defense, the eminent pathologist, Dr. Michael Baden, in the apparent belief that his testimony was sufficient to raise "reasonable doubt." Dr. Baden testified that Kassidy likely suffered fatal blows to her head on the morning of her death, November 9, 2000. Other witnesses were not called, even though many were willing to support Chad and his recollection of several events. For example, a school nurse saw Kassidy with Chad socially four days before she died and saw a loving relationship, and saw nothing wrong. There was only one photograph shown to the jury of Kassidy as a happy, healthy child, and it was taken on October 1, 2000, two months after the alleged abuse by Chad Evans had begun. The jury didn't see other photographs, such as the photo of Amanda and Kassidy on October 20, only 20 days before Kassidy died. The defense made little effort to show that Chad was not guilty of the other charges against him: six counts of second-degree assault, two counts of first degree assault, endangering the welfare of a child, and simple assault.
2. **DNA tests done in 2001, but not shown to the jury.** In March, 2001, the Maine State Police conducted DNA tests on the blood underneath Kassidy's ten fingernails. The blood was determined to belong to Kassidy, but that information was not brought to the attention of the jury at Chad's trial. The presence of blood on a Wendy's wrapper was explained as coming from "purging" from inside Kassidy's mouth as she was dying, which explanation seems inconsistent with the presence of blood underneath her fingernails. The jury did not hear of the blood underneath Kassidy's fingernails, and did not hear of the report of the first officer on the scene who reported that blood was coming out of her nose when he arrived. The other DNA test was of a paper towel which had male DNA on it. The jury did not have a chance to hear how this DNA appeared on the towel.
3. **Chad Evans passed a lie detector test.** In 2010 Chad Evans took a voice-stress-analysis lie detector test and passed it. Of the four adults who were close to Kassidy, he is the only one to have taken a lie detector test. He offered to take a lie detector test on the day that Kassidy died and shortly after he was told that he was the primary suspect, but the police declined to followup on that request. The police DID plan lie detector tests for the other three adults close to Kassidy: Jeff Marshall, Amanda Bortner and Jennifer Bortner Conley, but those plans were dropped. Jeff Marshall's test was scheduled for 14 November 2000, and he arrived at the State Police office to take the test, but he declined to do so. Although the police had told other interviewees that they were sure that Jeff Marshall would pass a lie detector test, his subsequent refusal to take the test apparently did not sway them from their quickly-formed theory that Chad Evans was responsible for Kassidy's death. The evidence seemed point equally at Chad Evans and Jeff Marshall, but the police stuck to their theory.
4. **Chad Evans loved children, including Kassidy Bortner.** The expression of that love included working with her to learn her ABC's and 123's and naming parts of her face and body and how to behave. It included playing on the trampoline and feeding and bathing her and holding her above her head so she could "walk" on the ceiling of his home. When Kassidy expressed a wish for a kitten, Chad and Amanda acquired a kitten. He loved to surprise her with treats, and he

purchased clothes that Amanda selected for her. Shortly before her death, he talked with his financial advisor about establishing a college education fund for her, as already existed for his son.

5. **Chad Evans was a successful, loving father and not an abuser of children.** At 28 years old, Chad was a successful manager with ample income at McDonald's and was very happy, and in love with Amanda and Kassidy and living life fully and hard, as well as playing hard. His recent separation and pending divorce, had increased his respect for the needs and emotions of others and his own need to be more sensitive, and less physical with those he loved.
6. **Bruises caused by Chad when obtaining eye contact.** Teaching Kassidy how to behave included positive messages, such as staying clear of the dog when the dog was eating, and discipline. Usually, such important messages and discipline meant only words communicated with close eye contact, as Chad was himself taught, and as his father was taught by his father. Sometimes, Chad would hold Kassidy's chin or her face with the palms of his hands to gain her attention and eye contact. The holding of Kassidy's lower jaw and face resulted in bruises about 3-4 times to her chin and cheeks. Each time, those bruises would disappear after a few days. At the time of Kassidy's death, her face may have showed one fading set of such bruises on her lower cheeks. Neither he nor Amanda ever asked a doctor why such bruising occurred so easily, as Amanda knew that she and her mother bruised easily. Chad has used the same techniques to ensure eye contact with his son Kyle, and always without bruising.
7. **These "eye-contact" bruises did not cause Kassidy's death.** The medical witnesses at Chad's trial determined that Kassidy died from hard injuries to her head and/or abdomen, and not from holding her chin to get eye contact. Chad never spanked nor hit Kassidy for any reason.
8. **All other bruises explained.** As far as Chad and Amanda knew, except for the occasional bruises on Kassidy's chin and cheeks, and except for Jeff Marshall's single instance of spanking Kassidy and causing extensive black and blue marks, all of Kassidy's other injuries and bruises, known to Chad and Amanda, were explained as accidents. Each time Chad, and/or Amanda, considered taking Kassidy to the hospital or doctor, Kassidy seemed to recover. If either Chad or Amanda had any idea that Kassidy was seriously ill, they would have taken her a doctor or to a hospital.
9. **Missed signals of distress on 8 November.** On the afternoon and evening, of Wednesday, 8 November, Kassidy showed several signs of not being well, beginning with the drive home from babysitting with Jeff Marshall. The signs continued when she fell down in Chad's driveway and after being hit by a hard rubber ball, a T-ball, in Kyle's bedroom before her bath. However, each time, she seemed to recover and Chad felt she was okay. He discussed the situation with his wife, from whom he was separated and divorcing, and with Amanda, and all agreed that Kassidy seemed to be okay, even if her appearance with bruises on her face, was unsightly.
10. **Chad Evans and Amanda Bortner were unaware of Kassidy's plight on the day she died.** On Thursday morning, 9 November, during the rush to work and babysitting for Kassidy and daycare for Kyle, Kassidy seemed tired and lacked appetite. She had two unsightly bruises, from falling into a coffee table and from the Tee-Ball, and scratches from her kitten on her face. However, the bruises were explained and the fatigue was thought to be related to the flu, which Kyle had recently suffered and maybe passed to Kassidy. When leaving Kassidy at Jeff Marshall's and Jennifer Bortner Conley's, Amanda knew that the appearance of her daughter's

face was unsightly, and she to Jeff and her sister, Jennifer, "She looks like shit, doesn't she?" However, Amanda Bortner had no idea that Cassidy was seriously ill or, worse, that her life was in danger. If Amanda, and/or Chad, had thought of such a possibility, she and/or he would have sought medical attention.

11. **Chad Evans and Amanda Bortner did not withhold medical attention for any reason other than the belief that it wasn't necessary. Cassidy did see a doctor 59 days before she died.** It was alleged by the prosecution that Chad and Amanda withheld medical attention. In 2010, medical records were found which show that Amanda took Cassidy to a pediatrician on August 8, 2000, and to an orthopedic surgeon, to check the apparent "pigeon-toeing" of her feet on September 11, 2000. Neither doctor saw any evidence of abuse, even though the indictments against Chad state that the abuse began on 1 August, and that there were "months" of abuse.
12. **The police and interviewees exaggerated the facts or statements which pointed to Chad Evans, and they avoided, ignored or minimized those which pointed to other possible causes.** After Cassidy's death, the police quickly presumed that it was caused by intentional and criminal blows. After quickly ruling out Jennifer Bortner Conley and Amanda and Jeff Marshall, the police concluded by the time of Chad's interview at 7:19 p.m. on that same day that he was responsible. After that, the investigation focused on how to assemble a case against Chad Evans, rather than continuing to pursue the true cause(s) of Cassidy's death, including the possibility of accidental causes, disease or toxins.
13. **The jury felt it had a choice of convicting Chad Evans or holding no one responsible.** Persuaded that someone was responsible, and faced with the choice of convicting Chad Evans or holding no one being criminally responsible, the jury convicted the one person presented by the police and prosecution as the criminal. The jury accepted the police and prosecution view that Jeff Marshall was not criminally responsible, despite the defense's attempts to persuade them otherwise. The jury did not hear that accidental causes or disease or toxins were considered reasonable. There was no direct evidence that Chad caused Cassidy's death. He was convicted on emotion and assumptions and the police-coerced statements of Amanda Bortner, which she later disavowed.

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