

OMAK-OKANOGAN COUNTY CHRONICLE

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Mistrial discussed in third day of murder trial

By Al Camp
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OKANOGAN – The third day of a second-degree murder trial involving a Carlton couple led to discussion of a mistrial and the jury being abruptly dismissed.

Garnet JaLea Swezey and Gregory Phillips Swezey are on trial for allegedly causing the death of their 17-year-old son, Zachery, March 18, 2009, by failing to seek medical help for him because of their religious beliefs.

Thursday's testimony included Okanogan County Sheriff's Office Detective Kreg Sloan, who told of how he came to send probable cause to the prosecutor. Wenatchee doctor Gina Fino also testified about the autopsy that showed the boy died from a ruptured appendix.

Defense attorney Douglas Webber, Omak, tried to pin down the detective on his report to Prosecuting Attorney Karl Sloan - Kreg Sloan's brother - stating there was probable cause to charge the Swezeys for being criminally negligent in their responsibility to provide care for their child.

Kreg Sloan testified he mainly used statements from five people present when the boy died and a coroner's report to conclude the defendants knew their son was going to die.

The statements included three people saying they believed the boy was going to die, including one saying so a day before the death, Kreg Sloan said.

Defense attorneys Chelsea Korte, Ellensburg, and Douglas Webber, Omak, each pressed the 16-year detective who said what in his report, asked if he used any other information to base his conclusion to charge and questioned the time frame as to when anyone said something about the boy's possible death.

"Where in the evidence does it say the family knew he was going to die?" Korte said. "Which statement?"

Questioning found the investigation took 18 months, and that from the time the boy became ill to his death was about 62 hours.

Questioning also found Kreg Sloan had received a phone call with information about the death from a witness not listed to be heard at trial. There were also previous medical issues with the Church of the First Born, of which the Swezeys are members and its belief in faith healing.

But when questioning brought out Child Protective Services had conducted a "parallel investigation" into the death and the church, and Korte asking Kreg Sloan if he relied on rumor, Karl Sloan objected. Superior Court Judge Chris Culp dismissed the jury and quickly ended the morning's testimony.

"I don't understand what happened here, but we need to refocus on this witness," Culp said.

"The door has been blown open," Karl Sloan said of defense questions on other information Kreg Sloan used to base his findings. That information, though allowable in an investigation, is not allowed in trial.

Karl Sloan said defense questions about material that was inadmissible in court was an "unfair characterization" of Kreg Sloan, and that there was "no way to unring that bell" and suggested a mistrial.

"We did not open the door to anything," Korte said. "He volunteered an unresponsive answer."

"We don't want a mistrial and we will back off," Webber said.

Culp said he was not thinking of a mistrial, "not at this point," but he was wondering how to close the door on what had been opened to the information.

"It is unfortunate this whole thing got open," Culp said.



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Superior Court Judge Chris Culp asks defense attorney Chelsea Korte how to best tell jurors not to consider testimony heard on the third day of a murder trial.

(Click on picture for bigger image)

After lunch, Culp told the jury to disregard any testimony regarding rumors or a parallel CPS investigation.

The trial for the Swezeys, who the state charged due to an alleged failure or omission of the parents to take reasonable steps to seek medical care for their son's condition, continued in the afternoon with about two hours of defense witnesses.

The packed courtroom – half a dozen people stood due to 40-plus people filling the benches – was admonished prior to starting by bailiff Mary Horner for loud comments during the proceedings.

The state was to bring Dr. Bradley Craig to the stand before resting.

The trial continues Friday.

If the Swezeys are convicted, they could face life in prison and/or a \$50,000 fine.