

Jurors clear Port St. Joe man of rape

By David Angier / News Herald Writer
September 17, 2008 - 10:32PM

PORT ST. JOE — Trials are patchworks of evidence sewn together to form a complete picture, much like a quilt.

In David Randy Polk's trial Wednesday, there were two quilts.

Jurors saw the prosecution's quilt, a multi-colored, floral pattern blanket, deliberated for an hour and then acquitted Polk of sexual battery on a person younger than 12, a felony that would have put him in prison for life.

The other quilt, a red, white and blue blanket depicting hot air balloons, had gotten Polk released from prison in this case in 2005.

Flowers

"I thought I was going to die," the alleged victim told jurors Wednesday. Now 21, she was 11 on May 17, 1999, when she said Polk raped her. "As I'd cry, he'd yank and pull on me harder and do it harder."

She said she'd fallen asleep watching television on the living room floor of her father's mobile home in Port St. Joe Beach. She said she awoke twice in the early morning hours of May 17, when Polk slammed the front door when he came into the residence and the second time as someone was undressing her. Polk had been staying at the residence for about two weeks as he worked with the girl's father.

She said her father was "passed out" on the couch a few feet away after drinking.

She said Polk put her on her back on the carpet, and then raped her violently for 30 minutes. She said he stopped when it appeared her father was waking up. She said she ran to the bathroom and cried, then took her dog, cat and a blanket into her bedroom and waited for morning.

She said she waited until she was on her way to school to tell anyone because she feared for her safety. She was examined by a doctor within hours of the alleged attack. Defense attorney Clyde Taylor asked her if the doctors found bruising, bleeding or carpet burns. The girl said no.

Taylor told jurors that doctors found no evidence of a rape.

The girl identified a floral-pattern quilt as her blanket, which she had with her during the attack. She initially said she took that blanket into her bedroom, then said she wasn't sure if she had. That quilt was found in the living room. A balloon-pattern quilt was found in her room.

Florida Department of Law Enforcement DNA expert Curtis Browning told jurors that semen

Jurors clear Port St. Joe man of rape

Page 2 of 2

was found on the balloon quilt, but it wasn't Polk's. Polk's semen was found on seven places on the floral quilt, which he said had been his personal blanket for years. Browning said the girl could have been a contributor to skin DNA that was found in one spot on the floral quilt.

Taylor asked Browning if there was any evidence of Polk and the girl "being together in some sort of sexual encounter."

"No there wasn't," Browning said. He said he couldn't say conclusively the alleged victim's DNA was on the quilt at all, only that he couldn't exclude her as a possible donor. Browning said there also was no DNA found on carpet samples taken from the living room.

Polk took the stand and denied any sexual contact with the girl.

"Why would she make these allegations against you 10 years after it happened?" prosecutor Brian Hill asked Polk.

"I cannot say why," Polk answered.

Balloons

Polk pleaded no contest in 2000 to the rape charge and was placed on probation. Before entering his plea, Polk said he asked his lawyer repeatedly to get the results of DNA tests done on items of evidence.

When Polk was arrested, he told investigators that he had been drinking with his friend the night of the alleged rape and was too drunk to know what happened. He insisted, however, that raping a child was not in his character.

The girl said Polk ejaculated on her bed quilt, and Polk insisted the DNA would exonerate him. His lawyer persuaded him to take a plea to probation before the test results were revealed.

Polk violated his probation by missing an appointment with his probation officer and was sentenced to nine years in prison. While locked up, Polk made a public records request to FDLE for his DNA test results.

The lab had excluded him as a contributor to DNA samples found on the balloon quilt.

Polk won an appeal on the issue in 2005, and Circuit Judge Judy Pittman in 2006 allowed him to withdraw his plea and go to trial if the case could not be resolved.