

STATEMENT ON BEHALF OF THE DEFENDANT

MR. GOLDBERG: Good morning, ladies and gentlemen.

THE JURORS: **Good morning.**

MR. GOLDBERG: **Grady**

Krzywkowski did not rape his children. He did not commit a gross sexual imposition on his children. And the prosecution and the State of Ohio will not adduce evidence beyond a reasonable doubt that he did.

Now, he's pled not guilty in this case, ladies and gentlemen, which means that, as the Judge has explained to you, he's entitled to the absolute presumption of innocence throughout this trial, and it is absolutely imperative that if justice is to be done, that you keep an open mind as you hear this evidence.

Now, Miss Smith's a skillful advocate. She's a skillful prosecutor. She's been doing it for a long time.

No matter how skillful, no matter how skillful she is, her words are not the evidence in this case. The evidence in this

you're going to hear from this

• case is what

witness stand and the documents that are going to be published to you by the Court.

And it is absolutely essential for justice to be done that you wait until you hear everything.

You will hear testimony of children in this case, and it will be difficult to listen to, but we believe that when you hear all the evidence, when you hear where the testimony of the children came from and how it was manipulated and came to be as it comes out in the courtroom as this trial unfolds, that there will be substantial doubt in your mind as to all of the acts alleged in the indictment.

A major theme in this case is going to be a rush to judgment, how some vague initial disclosures by the children, that weren't even necessarily incriminating of the type of things that Mr. Krzykowski has been indicted for, blossomed through the help of well-meaning, but probably misguided, very misguided social workers, foster parents and doctors, into the

970 wide-ranging allegations that the State now believes you will hear during this trial.

It is absolutely essential that you wait until you hear all of the evidence of where these statements came from, so that we don't have the same rush to judgment that the State wants you to make when you hear the statements of these children that occurred in the investigation of this matter.

It would add an additional layer of tragedy to this case.

Now, we all know that we all love children and we all expect people to protect their children and we all expect the community at large to protect its children.

And when these children testify, you may have the impulse to end the case right there, and the State would like for you to end the case right there.

The State is going to absolutely depend on your revulsion of these charges and the revulsion of the statements that come out of the mouths of these children, presumably to make up for a lack of any real

971 evidence. And I'll explain to you what I mean by that.

The statements and the initial disclosures made, I'll say the initial disclosures made by these children months ago, probably about a year ago, were not the wide-ranging kind of things that you're going to hear in the courtroom here today. They were very limited. * * .«•>. *

Some of them were nonsensical, some of them didn't really allege anything, other than some exposure to some sexual terms in the house, and through the miraculous work of people called by the State of Ohio and working for the State of Ohio, those statements have blossomed into what you're going to hear in court today.

I submit to you, ladies and gentlemen, that the statements you're going to hear in court are not the credible, substantially reliable statements that the State makes them out to be.

As important as what the children say is how they came to say it, and you're going to hear evidence, probably not by the State

972 of Ohio, but by the defendant, how they did come to say these statements and how the statements were processed and coerced, molded by the State of Ohio and their workers over the course of this investigation.

So it is absolutely essential that no matter what you hear from these children, you wait to hear all the evidence in this case before you make up your mind. If you don't do that, justice will not be served in this courtroom.

This case clearly represents a tragedy for these children. The very existence of the case is a tragedy for these children.

But if, as we believe the evidence will show, Mr. Krzywkowski didn't commit these acts, then at the end of the day this is going to be a tragedy for Mr.

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Krzywkowski .

The only thing even approaching the tragedy of child sexual abuse would be a parent facing a wrongful and untrue allegation of child sexual abuse, and that's

Mr. Krzywkowski has gone through for the last year, and he's thankful this day has arrived as well.

Now, you're going to hear statements from social workers that are intended to bolster the credibility of these children, but we believe that the evidence will show that the statements by these workers and their involvement in this case, as well-meaning as it was, and in their zeal to protect these children, actually is going to inhibit the finding of truth in this matter.

The evidence will show that collecting these type of statements from children is a very, very delicate matter. It's something that's got to be handled according to protocol, something that has to be handled according to established guidelines that the social work community, * the psychological community and the other

child care community has developed over time scientifically, because children are so suggestible, because children are so open to exaggeration and because their developmental

975 they act out in their present day as evidence of some of the trauma that happened to them in the past, and they're going to say that's suggestive that Mr. Krzywkowski sexually abused his children.

Well, we admit that these children -have been traumatized. While we completely deny what the State says, this trial is going to be concerned mainly with sexual abuse, which we deny any of that occurred, but these children have been traumatized.

Now, Mr. Krzywkowski and his wife, the evidence will show, had a very tumultuous life-style and kind of a chaotic life with these children. They've moved around from place to place.

>, '. There has been court cases against Mrs. Krzywkowski for physical abuse, physically abusing Grady Krzywkowski, physically abusing the children.

There has been restraining orders against Mrs. Krzywkowski.

There's been abandonment by Mrs. Krzywkowski, and I'm speaking just about Mrs. Krzywkowski, of these children at

There was a suspicious fire that occurred in the Krzywkowski home.

All of which have contributed to a general aura of chaos in the home, all of which we think, once the evidence is all in, can substantially explain most of the traumatized behavior of these children, not that it's due to sexual abuse, but it's due to the general chaos and abusive atmosphere in this home caused by the violent and some would say psychotic behavior of Mr. Krzywkowski's wife.

Now, during the course of Mr. Krzywkowski's care of these children, and no one's up here to say he was a perfect father, he wasn't, but during the course and care of these children, Mr. Krzywkowski never hesitated to avail these children to the various community resources that were there for children that have been battered by a parent, Mrs. Krzywkowski.

Miss Smith alluded to Providence House as a place that these children had been taken on occasion.

In fact, Mr. Krzywkowski took these children two times to Providence House •' * '-because of threats from Mrs. Krzywkowski.

Providence House is staffed by social workers and medical personnel.

Providence House, you will find out, did do an evaluation of these children.

Providence House, you will find out, found no evidence of any kind of sexual abuse of these children.

You're also going to hear evidence of the physical condition of the children from one of the State's witnesses, Dr. Gemmill. He is a doctor who is specially trained in the detection of physical and sexual abuse of children, physical abuse and sexual abuse of children.

Dr. Gemmill saw these children. The children were brought to him by Children & Family Services in Toledo for the express purpose of making a case against Mr. i Krzywkowski, of finding some type of physical evidence.

MS. SMITH: Objection.

THE COURT: The objection is

MR. GOLDBERG: His job was to find some type of physical evidence of abuse, and he looked, and he spent time with these children, and he looked over every -inch of these children, and there is absolutely no physical evidence that these children were ever treated in the manner that the State of Ohio claims they were.

Ladies and gentlemen, we believe the evidence will show that there is absolutely no way Mr. Krzywkowski could have done what he's accused of doing and not left any mark on any of these children, when a doctor specifically trained in finding these types of things couldn't find such evidence.

Ladies and gentlemen, this case is definitely going to be difficult to listen to. It's definitely going to be a challenge for each and every one of you.

You were all chosen for this jury because we felt that you can maintain what the presumption of innocence is, which is going to be absolutely paramount to seeing justice done in this case.

And if at the end of this case you feel Mr. Krzywkowski beyond a reasonable doubt has committed these acts, then it's going to be your duty to convict him, but as we feel the evidence will show, he did not commit these acts, and if you find that proof beyond a reasonable doubt has not been made by the State of Ohio, then it's going to be your duty to acquit him.

Now, if you wait, keep an open mind and wait until all the evidence is in, you're going to hear an explanation for these children's statements. You're going to hear an explanation for their physical condition. You're going to hear an explanation for their traumatized behavior. And all of those explanations are going to be consistent with a finding of not guilty, with Mr. Krzywkowski being wrongfully accused of these horrible crimes.

So I ask you, ladies and gentlemen, to please keep an open mind as the evidence in this case comes in.

It doesn't come in all at once, and it's probably going to take us a week to

