

NOTES

6/98 - 1/99 - Please note that in June 1998 when I voluntarily moved out of my home, it was I who contacted Children Services for help and report neglect only after my spouse was arrested for domestic violence. They did nothing to help me or the kids. I got a civil protection order (CPO) against my wife. A month later, July 1998, my spouse went to Children Services and claimed I abused her and the kids physically. Children Services conducted an investigation at my home at 3591 E66th St., Cleveland. This was the same address police used 2 years later when filing a report of an alleged sex offenses. During the time Children Services was involved, no evidence of any kind of abuse was found. An official letter was mailed to my wife and I closing the case as of January 1999. We moved May 1999 to 5319 Mound Ave, Cleveland.

October 24, 1999 - Another domestic violence incident occurred. My wife left and I filed a police report. The police and prosecutor did nothing. Upon returning home from the prosecutor's office, my home was on fire. Red Cross got involved and are aware of the on-going domestic violence. They wanted to place my kids at Providence House shelter until we could find another apartment.

October 31, 1999 - My sister, Lauren, and I took the children to the shelter. The shelter's director, Casandra Sharp, took the intake information. I told her about the domestic violence by my wife. She assured me the kids would be safe. We moved into another apartment three days before Thanksgiving.

April 24, 2000 - Another domestic violence incident by wife. Wife was removed from the house. Wife arrested on May 7, 2000, for another domestic violence charge.

April 2000 - Ryan, my oldest, had to stay with me. Because I wasn't able to get help in Cleveland, I notified the Children Services that I was going to have to leave the county to go to a shelter in Georgia (??) county forty miles from Cleveland. Apparently, my wife had told them lies about physical abuse, and they contacted the Georgia County Children Services. The police came to the shelter and questioned me and my son, then left. I returned to Cleveland to find an attorney to file for divorce and obtain a CPO against my wife for domestic violence.

May 17, 2000 - Order is granted for 2 1/2 years making me permanent custodian of the children and ordering my wife to keep away from us.

May 18, 2000 - Children Services do a telephone ex parte hearing behind my back through Juvenile Court. The children were removed from my custody.

May 21, 2000 - Abuse and neglect hearing commenced through Juvenile Court against my wife and I. The hearings ended September 2000. My oldest sister, Lauren, was given temporary custody of the children. She then had all the children checked by their doctor. There was absolutely no evidence of sexual or physical abuse found. My sister gave the children up 4 weeks later.

June 2000 - Children were in the custody of foster parents. Foster mother stated that the kids allegedly walked up to them and said that my wife, her family, and I raped them. I don't believe my children did this on their own without coercion or coaching from the foster parents. The prosecutor would not let the medical reports of the children be presented at my trial. The reason stated was that I, as the accused, had no right to access to the records. I feel the records had exculpatory evidence if introduced in my trial as defense exhibit would have rebutted the state's false allegations. My attorneys argued about this denial of evidence and lost.

Pre-Trial - April - June 18, 1998 - Court appointed attorney, Richard Agopian, finds a huge discrepancy to the offense dates on the indictments. Once the prosecutor discovered that I was nowhere around my kids June 1 - July 18, 2000, they are allowed to change the dates by one full year. Agopian protested and

objected but the trial court allowed the state to violate my constitutional rights to due process by letting the state change the dates. Even then, the dates they chose were full of discrepancies. On Nov 8, 1999, they weren't even in my care. They were at the Providence House Shelter.

During Trial - My grandparents came up with \$22,000 and hired 3 defense attorneys. On June 18, 2001, my old attorney told me there was another pre-trial that turned out to be jury selection. My new attorneys were present. The Judge refused me my right to hire my own attorneys. New attorneys had to go to the presiding Judge to order the trial Judge to comply with my rights to private counsel. After two days of battle with this Judge, she was going to let me hire them; but, wanted me to go to trial immediately unprepared. I fought again for a day and won a continuance to July with opposition by the prosecutor. They ended up requesting the court postpone trial until September 2001. The Judge granted the continuance.

Please note that during the trial, I noticed three Cleveland police reports generated by Sherlyn Howard who never testified. They contained the initial reports of sex crimes with conflicting dates and address where the alleged crimes took place. My attorneys stated that it wasn't important enough to fight. These fictitious reports are what initiated the whole indictment process against me. This detective supposedly drove out to Toledo, OH where my kids were and took detailed reports from children too young to form sentences let alone make accusations of this nature. Something about it just doesn't add up.

Events Preceding My Arrest..

Mid-July 2000. I had to contact the Cleveland television news media – Channels 3, 8, 5, 43, and 19 – and the Cleveland Plain Dealer, to report the serious problems I was having with agencies that were permitting my wife to escape charges for assault, stalking, and ongoing violence; the failures of the police and prosecutor’s office, Children’s and Family Services, Witness-Victim Program, and Legal Aid Society to get my dangerous wife off the streets and protect my children and provide resources. Channel 19 News I-Team investigator Tom Myers interviewed me and several witnesses for 3 hours. He tried to reach all of the above agencies, even my wife, for comment. The police declined an on-camera interview, but told him “off the record” that they were conducting a criminal investigation of their own. All the others declined comment.

August 2, 2000. Tom Myers of Channel 19/ 43 News did a special on my situation called “Men – Victims of Domestic Violence.” It aired for 3 days, and I had to move from my friend’s house on the east side; my wife contacted me and told me that the reason the police were not helping me was that Detective Dale Moran had been issuing memos to the precincts not to respond if I called them about my wife’s violence or the Court Protection Order. My wife also told me that this detective had threatened to “take me out.” I told my wife that if she really cared about my well-being, to report this to Sgt. Walker, a police internal affairs investigator. Due to the pressuring of Children’s Services and others, I was forced to “reconcile” with my wife.

September 2000. I received in the mail, on the official letterhead of the City of Cleveland, a letter informing me that sufficient evidence was obtained on several Cleveland Police officers, and that criminal charges would be sought. I also received a formal apology, but the names of the police officers were not revealed.

I was then referred to an “advocate” for help to get my parental rights back. Me and my wife, and the advocate, attended a meeting at the office of Children’s Services caseworker Jocelyn Johnstone and her supervisor Barbara Mummin. They led us to their office under the pretense of wanting to help us, but once we were there began to hash out unfounded claims of alleged sexual abuse, accusing not only me – but my wife. (They never told us of the accusations against my wife’s family – we learned of this later.) The only evidence they said they had was in the form of alleged disclosures made by our children. They informed us that a “sex crimes detective” had been assigned to investigate. My wife and I immediately ended the meeting, got up and left. We contacted the police and asked them to confirm the aforementioned investigation. They said that no such investigation existed.

Late September 2000. My wife's Juvenile Court attorney, Dexter Clark, advised her "to get as far away from me as possible," but wouldn't go into detail. He told my wife to contact the Children's Services attorney, Prosecutor Milkens, for further information. With me on the phone's other extension, she called him. Milkens told my wife, "You both better start hiring a criminal defense attorney, for sex crimes against your children." My wife asked him if she, then, was being charged. Milkens told her that he "wasn't sure what he was going to do with her," but he was sure that he was going to have me charged. My wife and I were in shock, and then angry. I contacted the law offices of Goldberg/ O'Shea; they took my information and told me not to call police or Children's Services any more, as they were not out to help me. Goldberg said he would check around the Prosecutor's Office to see what was happening. He called me back a couple of days later, saying that he was perplexed over having found nothing. He expressed his aggravation, saying that these were serious accusations and "no one down there (at the Prosecutor's Office) knows anything." Goldberg suggested that I contact the clerk's office every two weeks for the next 90 days to see if charges were imminent. I made these calls until late December 2000, and was always told that no charges had been filed.

Christmas 2000. Children's and Family Services illegally terminated our visitation privileges with our children, without first going through the courts. My wife and I had gone out and purchased Christmas gifts for the children. Children's Services allowed my wife's parents to visit the children, delivering the gifts, at a McDonald's Restaurant in Toledo. (This despite the fact that my wife's parents would be implicated in the sexual abuse allegations as well.) At the visitation, the children looked sickly and didn't seem to care about the gifts; they were only concerned with the whereabouts of my wife and I.

February 2001, the Arrest. With me again listening on the other extension, my wife called the children's social worker Jocelyn Johnstone; and enquired about getting our visitation rights back. Johnstone told my wife that custody would be worked out at the Custody Review Hearing at Juvenile Court on April 24, 2000. She assured my wife that we would get custody back. When she asked Johnstone how the children were doing, she was told that the children were doing good and that the abuse allegations were turning out to be unsubstantiated. Johnstone wanted to come over to our new apartment so that my wife and I could sign some papers, and an appointment was made for February 13, 2000. On that date the Cuyahoga County Fugitive Task Force came, instead of the social worker, violently broke into my home, and arrested me in front of my wife. They informed me that I had missed a preliminary hearing scheduled for February 8, 2000 – a summons I never received.

Please note : During the arrest, the sheriffs ignored my wife's requests to produce a warrant; they told her, "We don't fucking need one." My Miranda rights were never read to me, and the sheriffs refused to tell me what I was being charged for until I got down to the county jail and

they handed me an 8-count felony indictment on rape-GSI. On the ride downtown the arresting officer did tell me that the preliminary “summons” was in fact mailed to a non-existent post office box that I had stopped renting 8 months ago. The County knew where my wife and I lived; every time we moved, we always notified the County so they could let us know about our children.

Juvenile Court Travesty and Black Market Adoption of My Children..

March 2002. While I was held captive at Lebanon Penitentiary I received a poorly drafted complaint for divorce from my wife’s attorney, on grounds of mental cruelty, requesting custodianship of the children (she never had the children – Foster Care did, for over 19 months). I then filed a counter-claim for divorce on the grounds of her adulterous behavior, domestic violence, and abandonment. I attached exhibits to back up my claims (my wife’s “guilt” letters are posted on STS); her court-documented history of violence, etc. I also reminded the Court that it was me and my oldest son Ryan who testified in the same court on May 17,2000 regarding my wife’s assaults on us; and that the Court had granted a full civil domestic violence protection order for 3 years, to keep her away from us. (Copy of the Civil Protection Order will be posted soon.) I never received an answer from my wife or her attorney; but in September 2002 the courts sent me a copy of their decree granting the divorce, and making my ex-wife pay for costs.

My ex-wife wrote me a 14-page letter of abuse and taunting. She said that she was “glad the children and I were finally out of her life,” that she felt we were “excess baggage,” that we just held her down from the “good things in life.” She boasted of now being married to a “rich Arab” and of living in “the lap of luxury.”

May 2002. I received a complaint from Children’s Services and a motion for permanent custody of my children, requesting that their past caretakers (foster parents in Toledo) be awarded full custody. In the complaint the County mentions my conviction; and the fact that my ex-wife voluntarily refused to complete her required parenting programs and seek stable housing, and that she abandoned the children in foster care for over two years.

I then filed a 5-page complaint/ petition against Children’s Services, and Guardian Ad Litem Kim Elzeer, for gross ethical misconduct; failure to contact the children’s other family members about custody issues, hiding my children 104 miles away from their family, refusing to return phone calls of enquiring family members, criminal negligence in handling my family’s case

since 1998, using intimidation to scare off and deter family members from coming forward to take custody. I also filed a motion requesting that I be transported by the Sheriff's Department to the hearing scheduled for February 13, 2002. I was transported, in chains, to the preliminary hearing at Juvenile Court commencing at 9 am. I was alone with an appointed attorney, whom I had never met - but had been representing me on this for over a year, without my knowledge. I immediately fired this attorney in court, and the court appointed me another attorney. My ex-wife was supposed to show up for this hearing, but had a scraggly-dressed lawyer appear on her behalf, saying that "the mother loved her children, but felt that the children were better off in foster care." The judge was completely dumbfounded and disgusted. With paperwork in hand, the County workers rushed over to my ex-wife's attorney, to have him sign the custody waivers. Then her attorney left the courtroom, never to be seen or heard from again. The hearing was postponed until I could locate some of my family for possible custody transfer. At the next hearing (April 2003) my younger sister (20) and my friend appeared with me; but my family has been effectively intimidated by what they've seen me go through, and have withdrawn their interests in pursuit of the children.

I haven't heard anything since. I signed no custody waivers (I refused), and the courts have been conducting hearings outside of my presence. Currently, my attorney refuses to contact me or answer my inquiries about the welfare and location of my children. My complaints are being pursued at the level of the Ohio Supreme Court.

February – September 2001

Facts surrounding the children:

CCDCFS stated that the children (except Katelyn) displayed signs of “sexualized behaviors.” Children allegedly stated that “Daddy,” “Mommy,” “Paupa” (wife’s dad), “Mauma” (wife’s mom), Uncle “Ross” (wife’s brother), and Aunt “Shawna” (wife’s sister) raped and physically abused them. They were never charged – only I was.

Foster parents waited several weeks before reporting “alleged disclosures” to the authorities.

Dr. David Gemmel of St. Vincent Mercy Hospital, Toledo, Ohio (an “advocate for sexually abused children since 1967”) was the examining doctor and witness against me. Dr. Gemmel examined the children more than 2 months after the secret alleged sexual abuse disclosures were supposedly made in **July 2000. However, the children were not checked until Sept.-Nov. 2000. Something about this is very strange. Why would they wait so long, under these very serious circumstances, to report and take my children to the hospital?** Gemmel checked my sons in September, while in November he examined my daughters. At the end of both examinations he concluded **NO findings of any sex crimes or other physical abuse.** While examining my oldest daughter (alleged victim) with a long, slender Q-tip in various places on her body, he asked her in every spot he put the Q-tip if she had been touched there by me or anyone else. Kristen said **“NO.”** Yet Children’s Services at that point kept pressing on with their “witch hunt.”

Please note: At trial, when Dr. Gemmel testified, he stated that just because he “didn’t find any physical evidence, doesn’t mean it did not happen;” that he was basing his conclusions on other findings in other cases he had investigated, rather than the lack of findings on my children. Dr. Gemmel was shown the initial reports he generated after the physical exams by my lawyers, who then asked him to point to any parts of his reports even mentioning sex abuse. The Doctor could not point to any. My lawyers pointed out to him that the doctor’s report (Gemmel’s own words) said there was no sex abuse, let alone physical abuse; and that the doctor only “believed” that the children grew up in an “over-exceeding” environment. Since this witness, Dr. Gemmel, had changed his out-of court statement in his testimony, I was now entitled to see his “notes,” which he relied on to change his testimony (under Criminal Rule 16 (B) (G) 1). My lawyers objected to the doctor’s testimony as “prejudicial” to me, violating my 6th Amendment Right to Confrontation and Due Process.

Cleveland Police Sex Crimes Detective, Sherlyn Howard, supposedly got involved in September 2000 when my wife and I were informally accused of sex abuse by county workers and told that the Sex Crimes Unit was investigating; this conflicts with the fact that my wife and I were told by a Cleveland Police 3rd District Commander **a year earlier** that “no criminal investigation existed” on her or me. This detective **never** testified at my trial; no police testified, for that matter. Just like a few others, she never spoke directly to my children about the allegations – only to other people (foster-parents). She never spoke to me, my wife, and – most

importantly – her family; never spoke to any of the people in my family; never spoke to my children’s pediatricians from Cleveland who had known my children since they were born until they left Cleveland for Toledo; never enquired into Children’s Services’ “other” investigations which turned up “no findings” (July 1998 – January 1999). She never spoke to one person who had been part of my children’s lives in Cleveland – only selected “social workers” from Toledo and Cleveland. The “others” who testified against me **admitted freely** that there were no actual tape recordings, or video, showing my children making such “sex abuse” allegations. Taping this sort of thing is protocol, and necessary for corroborating the allegations. When my lawyers asked the Prosecution’s witnesses why the protocol was bypassed, they said, “Our tape machines were all broken.”

Even so, Children’s Services’ reports from Toledo and Cleveland also accused my wife and her entire family of the same “alleged” acts as I was. They were **never** indicted.

At Trial..

The children seemed confused as to the reason for their being there. Their recollections of past “alleged” events were proven **distorted**. This was due to their very young age, which fell below legal requirements of competency for child witnesses as prescribed by law (see State V. Frazier SUPRA Ohio Supreme Court Mandate requirements of competency of child-like witnesses under the age of 10). It was obvious to my lawyers, the prosecution, and the judge that my children had been coerced and coached in their testimonies, as well as in the verbal competency tests given in open court in front of the jury. The trial judge, through her bias against myself and my lawyers, was in fact part of the coercing and coaching of the children during the open-court competency exam – dictated by the judge. This was evident when, during the competency hearing, the prosecutor asked my son Ryan (age 8) a question. She made my son look at the judge, and asked him if he thought the judge was a man or a woman. My son said, “The judge is a man” (in fact, the judge was a woman). The people in the court broke out in laughter, as well as myself and my attorneys. Yet the judge still declared him and my other children (who were younger) as competent.

Please note :

When the prosecutor led my children into the courtroom, the children became really excited to see me – they were very happy. They kept shouting my name, “Daddy, Daddy.” Ryan and Aaron kept running over to my table. The prosecutor tried to restrain them, but could not. The prosecutor let me have a short visit with my children, during which I held them in my arms. All of this happened in front of the jury and the entire courtroom audience.

My children did not display any fear toward me, at any stage. It was only when the prosecutor put my children on the witness stand that they became irritated, agitated – and more so when the prosecutor began hammering my children with hardcore pornographic questions. My sons would not sit down on the stand; they kept wanting to stand up to get a better glimpse of me. The prosecutor grew irritated with my children because of this, and yelled at them; as did also the judge. The prosecutor gave treats and snacks to the children for “correct answers,” much like

a dog trainer would reward an obedient dog. He even put my daughter Kristen (age 6) through 6 hours of grueling testimony on the stand. My youngest daughter Katelyn (age 19 months) never testified, and the indictment on me for her was later dropped.

Pre-trial Motion-voir-dire

The trial judge refused my lawyer the right to cross-examine my daughter Kristen. The foster parent, Sharon Harpel, had previously testified that my daughter had also accused her of abusing her, at some point, at the foster home – as well as accusing my wife and members of her entire family. The judge, however, did allow my lawyers the opportunity to question my sons (my lawyers declined). The judge denied my lawyers the right to introduce exculpatory evidence in the form of my children's entire medical records (from Cleveland child-abuse intervention agencies), which had ruled out sexual abuse a couple of years before; denied my attorneys the right to introduce past investigative reports done by Children's Services, which revealed no sex abuse. All these records would have proven my innocence, and certainly would have put doubt in the jurors' minds as to the charges against me.

Prosecutorial Misconduct

Withholding of evidence. Improper remarks against me at trial. Allowing other witnesses into the courtroom at the same time as witnesses who were in the act of testifying. Coaching and cueing testimonies. Going over pre-testimonies with alleged victims and other witnesses, outside in the lobby, in direct violation of the court's order. Witness – tampering threats made to defense witness. Interjection of illegal, un-indicted, uncharged other “bad” acts to poison the jurors' minds in getting me convicted at all costs (violation of RC2945.59).

Throughout the trial the prosecutor made inappropriate comments, remarks, and references to other “bad” acts, portraying a physical abuse that did not exist in my home; and painting me as a “bad man” deserving of punishment at all costs. Prosecution also made these inflammatory remarks in its closing arguments, calling me “a bad dad,” “a rape dad.” All these remarks did in fact have a cumulative effect on how the jury regarded me. **Witness tampering – intimidation of defense witnesses committed by an agent of the Prosecutor's Office, Children Guardian Ad Litem Kim Elzeer.** It was this woman, one of several people located in the back of the courtroom, who during the testimonies were seen by my attorneys making gestures in the form of hand signals; coaching and cueing the testimonies out of my children. My attorney's objected to this deplorable and illegal misconduct, and the judge overruled the objections, allowing it to continue. **Intimidation of defense witness.** While I sat in county jail, awaiting trial in April 2001 (before I posted bond), my wife attended a custody review hearing at juvenile court concerning our children. My wife was approached outside the court in the hallway by Kim Elzeer, and was verbally bashed and emotionally abused. She threatened my wife by telling her she would be charged with sex crimes against the children and would go to jail, if she didn't start

giving the answers she (Kim) wanted on me. Later that day, I called my wife on the phone from jail, to find out what went down at the hearing. Crying and upset, my wife told me and said that she was extremely afraid of Elzeer; she said she kept telling Elzeer that she had nothing about me to give, had never seen me sexually abuse our children; that if there was really sexual abuse going on, someone would have seen it because of the close contact her family and mine had with the children. My wife said that Elzeer kept taunting her, saying that the children had been so badly sexually assaulted they would need reconstructive surgery on their private areas, in order to please their future husbands (referring to my daughter). Ass bizarre as this sounds, this is what my wife related. What my wife didn't know was that Kim Elzeer was lying about the physical condition of our children, hoping that my wife would get angry enough to say something about me that wasn't true. This, despite the fact that there were absolutely no physical findings of any abuse on our children. My wife told me that Elzeer said, "You know, Grady's going away for a long time;" and that if my wife did not start talking, she too would suffer the same fate and would never see the children again. My wife reported this "conversation" to my attorneys via email in July 2001; that email is posted here on this STS site.

Later, after posting my bond and getting out of jail (July 28, 2001), my wife and her sister voluntarily went down to my attorney's office on three occasions between July and August 2001, to make statements against Children's Services for their misconduct, and against the Guardian Ad Litem Kim Elzeer for her intimidation. They also made detailed statements in support of my innocence; they showed my attorneys Children's Services documentation of "case plans", signed by county workers and supervisors, in which all sexual abuse was ruled out prior to 2000. My wife told my attorneys that if there were "barbaric" forms of sexual abuse going on, there would have been some kind of physical signs, or behavior indicators, that no one could have missed. When my attorneys showed me and my wife reports from Toledo of the children's alleged severe behavior, we were both shocked; the children had never acted in these ways, when with us. My wife showed my attorney the original Children's Services complaint against her and I, which indicated domestic violence in our home but no sex abuse. It was only after the children left, many months later, that the sex abuse allegations surfaced from the mouths and homes of the foster parents.

September 9, 2001 – 5 days after trial commenced, 4 days before trial ended..

My wife was living with her parents, and she got an unexpected phone call from Kim Elzeer. After that conversation, my wife called and told me that Elzeer frantically wanted to meet with her. When my wife refused, Elzeer became more frantic and anxious and told my wife she wanted to meet "before it was too late." My wife arranged a meeting with her, anyway. I had contacted a friend (and attorney), Jerome Berkley, and he offered to go with my wife to this meeting. But my wife was afraid - Elzeer had warned her not to bring anyone with her (no attorneys). I asked my wife to at least take a concealed tape recorder, but she refused. My wife was supposed to meet with Elzeer the next day (September 10, 2001) at a local McDonald's

restaurant at 8:30 am. My wife assured me that she had something planned for Elzeer this time around, saying that Elzeer would not force her to make statements against me; and that she would call me after the meeting with her report of what happened. Meanwhile, I was at trial. My wife never called me, and on September 12, 2001 (another trial date) the prosecutor walked over to me at my attorney's table and handed us his new amended witness list, bearing the name of my wife. One of my attorneys stormed out of the courtroom to where my wife was sitting in the lobby, talked with her, and returned extremely angry and exasperated. He told me he had asked her, "Why are you doing this to Grady?" Her response – "I have to protect myself, too." My attorney got up, with a folder in hand, and handed it to the prosecutor. The folder contained my wife's previous statements in behalf of my innocence. The prosecutor looked them over and became furious, throwing the folder across the room and mumbling, "That fuckin' bitch!"

Because of the intimidation tactics, I lost two key witnesses – my wife and her sister, Shawna Kerns.

Statements by my wife's sister, Shawna Kerns, at my attorney's office July-August 2001

Shawna Kerns (age 15 at the time) is my wife's sister. She lived with my wife and I between February 1999 – July 1999, and frequently baby sat out children. Shawna stated that I am innocent, that she has never seen me do anything wrong to my children. Shawna stated that, despite her sister's violence, I was a very good and exemplary father.

New attorney (Goldberg) fails to call some 15 witnesses in my behalf. Fails to turn over case file to me (after conviction) for over 28 months. Complaints were filed with the Ohio Supreme Court Disciplinary Counsel, and the Counsel ordered him to turn over my case file; but refused to file disciplinary charges against him. Goldberg's failure to turn over my case file, in a timely manner, damaged and extinguished my ability to litigate more claims in my post-conviction remedy (see complaint posted on STS).

Goldberg fails to cross-examine my son's testimonies.

Goldberg knew of the judge's misconduct throughout trial. When I asked him to request that Judge Saffold be removed from the case, Goldberg stated that he did not "want to piss off the judge, anymore than she was already." Please note – Judge Saffold was, herself, a victim of her violent former husband (reason enough for conflict of interest, and disqualification from my case).

Events of Trial Continued...

Social workers from Cleveland who testified at trial

Cynthia King was the prosecutor's "hired gun", used only to bolster the credibility of child witnesses. She freely admits she never meets the children when making her diagnosis and drawing her opinions. She never interviews any of the children's friends, family, school teachers, or pediatricians. She never interviewed me or my wife. She further admitted that her testimony was based solely on the reading of "choice" behavioral reports from the home of the foster parents. On cross-examination my attorney got her to admit that not all children who display the alleged behavioral patterns (such as my children) have been sexually abused. When my attorneys asked her if she ever wanted to pursue my children's entire record, to properly and more thoroughly evaluate the abuse allegations, she said, "No." She also admitted, afterwards, the great importance of interviewing the suspected child-abuse victim's family, and the alleged victims, for "collaboration" of such accusations. She admits how important it is for social workers never to do the actual interviewing of a child suspected to have been abused; to prevent an overzealous worker/ advocate from "implanting" false information into very young children's minds – thus turning into false 'memory' for the child to recollect. Ms. King also admits that the prosecution was paying for her to get more education, in exchange for her testimony. She admits that she majored in "theatrics," for the purpose of entertaining an audience. She states the great importance of neutrality between interviewer and alleged victim.

Please note: throughout the trial testimony of prosecution witnesses, my lawyers discovered that my children had been interviewed by many unqualified people.

Cynthia King has testified as a prosecution "hired gun" in hundreds of other cases (please see State of Ohio vs. Francis 1999). That case was thrown out by the Court of Appeals because Ms. King's testimony was irrelevant to the subject matter of the case itself. Ms. King admits that she never has testified for the defense of the accused – only for the State, for the sole purpose of prosecution. The Court of Appeals, in my case, states that Ms. King was prejudicial; for the fact that she had no prior knowledge of the alleged victims. However, the CA said it was "a harmless error," and rejected my claim (which is in conflict with the holding of State Vs. Francis.)

Ms. King is BA, MA, in Social Work. She is not a qualified PHD.

Post arraignment, Cuyahoga Public Defender appointed Rochell Burnett late February 2001

I was charged originally with 6 counts of rape and 3 counts of GSI, on all 4 children (they later dropped the charges regarding my youngest daughter Katelyn). The first time I met with Rochell Burnett she tried her hardest to cop to a plea. When I refused, she became furious and started yelling at me. She told me that if I did not take her “deal,” the court would “fry” me (later found out that Rochell had personal relationship with my judge). Then she told me that the court could have me psychologically evaluated. I refused and told her I was not crazy, and that I would not admit to something that I did not do. Ms. Burnett cancelled the next pre-trial hearings (3), and I did not hear back from her for three weeks. As I was also, in the meantime, trying to hire private lawyers, the judge was trying to hold me responsible for delay. Ms. Burnett came to see me in the middle of March 2001, announcing that she had to be taken off my case because of her high case load (the judge later said it was because of a personality conflict). Burnett said she was giving my case to court-appointed attorney Richard Agopian.

Private court-appointed attorney Richard Agopian

Filed for a “discovery” on March 1, 2001. The Prosecutor filed a response on June 18, 2001. Richard Agopian said he found huge discrepancies in the children’s statements and those of the foster parents. He told me the court had appointed me a private investigator. An investigator did visit me briefly (30 minutes); I asked him to check on some two dozen witnesses. This PI said that it wasn’t his job to seek witnesses, it was Agopian’s. Four more pre-trials were scheduled. I never attended, but Agopian did behind my back. I eventually had to fire Agopian. I sent a motion to the court asking the court to dismiss him for not representing me (never got a response). I sat at the county jail for the next 90 days, without any more appearances in court, never hearing anything from Agopian. On June 15, 2001, I got an unexpected visit from him – he told me that the judge would not let me fire him. He readily told me that he had been plea-bargaining behind my back, and that he had reached a deal with the Prosecutor. I told him, “No deals! I am innocent!” He said that I would not get a fair trial with the woman judge I had. I told him I didn’t care about him or the judge – I was not going to lie, and say I did something I did not do. Agopian kept trying his hardest to convince me that a plea was the only way out (for him). He said that if I took the deal, he would submit a legal letter, addressed to the kids when they were 18, to be filed with the clerk of courts, and stating that I had no choice but to take the plea (not only because I wasn’t going to get a fair trial, but also because I loved them and did not want them to testify). I thought Agopian had lost his mind! He got real angry and threatened me; saying if I made him take this to trial, he would throw my defense. I told the judge what he said in open court the following Monday, and he denied it. The judge basically called me a liar. I ended that Friday visit by walking out of the interviewing room, yelling for a CO. I got back to the “POD” and contacted my grandfather, who hired private attorneys Goldberg/ O’Shea, and raised my bond, getting me out of jail. These were the same attorneys I spoke to right after the county workers accused me and my wife back in 2000.

Judicial Misconduct

Trial Judge Shirley Saffold tried to stop me from hiring my own attorneys; in fact, she refused. Both my new lawyers and Agopian argued with the judge, the judge making rude and insulting statements against me and my new lawyers. I explained to her in open court that Agopian wasn't following up with any of my witnesses, nor was he even including me in consultation. My new lawyers fought a fierce battle, not only with the judge but also with the prosecutor. They had to go to the presiding judge Richard Mcmonagle and make a complaint. The judge was forced to let me hire my lawyers of choice, but wanted us to go to trial that day, totally unprepared. More arguing went on, and the judge granted a 30-day extension; then the prosecutor asked for a 90-day extension that was easily granted. Trial commenced September 4, 2001.

During trial the judge denied defense counsel's right to inspect the notes of foster parent Sharon Harpel and the notes of Dr. David Gemmel. Sharon stated in her testimony that Kristen had also accused her of abuse as well. Dr. Gemmel found absolutely no physical evidence of any abuse, and faxed those reports to Cleveland Children's Services in September 2000. He had changed his statement during his trial testimony, without defense attorneys having inspected his notes.

Jury misconduct, missed on direct appeal

September 11, 2001, jury members Mr. Jones and Mr. Manke approached me outside the Justice Center, during the bomb evacuation of the building; they walked up to me and started talking about the case – they wanted to hear my side of the story since my attorneys had not let me testify. They asked why my attorneys had not cross-examined Kristen, or submitted any evidence in my defense. I told them the judge refused my attorneys the chance to vior dire my daughter; and that judge was refusing to let me introduce my children's medical records, showing that the kids were ok prior to being placed in Toledo. The jurors were surprised, and asked me if I was guilty. I said "NO!" I told them that I could never hurt my children; I told them all that Children's and Family Services had done to hurt my children by not helping them. Mr. Jones then asked me if I was a Christian, and I said that I was. Then he told me to keep praying to the Lord. I advised my attorneys of what happened, and against my wishes they informed the judge, who was furious and in disbelief of the whole incident. When she questioned the jurors, they admitted to speaking to me. My bond was revoked, the jurors threatened by the judge who let my lawyers and the prosecutor ask the jurors questions. The jurors were not dismissed – the trial went on.