Friday, March 16, 2007

On the Eve of the Trial

A lot of people asked the same thing about Christopher Edwards' murder trial. Based on what they'd read, what they saw on television, and what people were saying over coffee or beer, those people wondered, "Why is this case going to trial?" Based on what had been revealed in court documents and interviews given by the principals involved, there seemed little doubt that Edwards had murdered his girlfriend and successfully hid her body from the police and her family.

Edwards aggressive defense team states emphatically that there is every reason to not only go to trial, but to believe the 19 year old has been wrongly accused.

"This case is all about hearsay," claims one of Edwards' attorneys.

It's a case based on a huge amount of scientific and circumstantial evidence, claim the prosecutors.

Now it's up to a jury of Douglas County residents to decide.

The details have been widely reported. in May of 2006. Six days after the last time anyone heard from her, Omaha police officers interviewed her boyfriend, Christopher Edwards. Edwards lived with his aunt on the city's west side. Looking around his bedroom the investigators saw what appeared to be blood on box spring, headboard, and ceiling. A search warrant followed. Because the home was outside city limits, the Douglas County Sheriff picked up the case.

A month later, with Jessica O'Grady's whereabouts still a mystery, the county attorney claimed there was enough evidence to consider this not only a missing person case, but a homicide as well. They charged Christopher Edwards with Second Degree Murder and use of a deadly weapon. They believe O'Grady was hit repeatedly with an imported sword they found hidden at the Edwards' home.

Now the case rests on the bench of District Court Judge J. Russell Derr.

On Friday, Christopher Edward's attorney made one last… or maybe four last… attempts to get the case moved, delayed, or derailed.

In an indication of just how important this case is for the Douglas County Attorney, the newly elected top prosecutor, Don Kliene was on had to personally argue against anything that would delay Monday's trial.

From the defense table, Steve Lefler asked Judge Derr to move the trial out of town. Too much coverage in the newspaper and on Omaha's crime hungry television stations, he argued, has made this case one that many, many people have become aware of and formed an opinion about. As proof, he brandished 159 pages of newspaper clippings and broadcast transcripts obtained from a local media monitoring service. Lefler, using local advertising rates, estimated that the case, including the search for Jessica O'Grady, would be worth over one million and a half dollars in publicity.

And how much of an impact does all that publicity have? Lefler argues it's substantial and damaging to his client. About a third of the 100-

plus people who filled out the juror's questionnaire stated they already felt Christopher Edwards was guilty. Plenty more had already been exposed to the coverage.

Prosecutor Kliene wasn't impressed. He argued that until jury selection is underway there is really no reason to doubt an acceptable group can be drawn from the pool.

The trial stays where it is, ruled Judge Derr. The publicity alone wasn't reason enough to move the case out of town. He added that courts have found time and again that even people who may have formed an early opinion have the ability to hear both sides and offer an unbiased verdict.

If Christopher Edwards's trial was staying in Douglas County, argued Lefler, the defense team needed to delay the start to consult with new expert witnesses. At issue is a very, very delicate issue for everyone involved. Was Jessica O'Grady pregnant? Could she have had a miscarriage while in Christopher Edward's room, accounting for the blood stained mattress? Could it have been caused by birth control pills taken after the pregnancy? Should any of this be considered relevant in Edward's defense?

With a passionate argument from the defense table, co-counsel Kimberly Cabullido raised the issue anew. She wanted more time to locate an expert witness to testify that a miscarriage could have occurred. Added Lefler: "We don't know what happened in Mr. Edwards bedroom. We don't know the source of that blood. She may have done it herself."

Judge Derr already took a firm stand with both prosecution and defense, blocking any evidence that might smear the reputation of the missing Jessica O'Grady. He earlier ruled that evidence of birth control was irrelevant. Edwards already said he believed his girlfriend was pregnant, providing, what Derr called "his state of mind." A frustrated Cabullido argued Derr's attempts to protect O'Grady's reputation allowed only for discussion of the alleged victim's "happy habits" while blocking any of her personal history that might provide information that could bolster the defense version of what happened in Edward's bedroom.

Derr held fast, agreeing with Prosecutor's that nothing new arose in evidence that should delay a trial and that the Defense still may have the opportunity to locate their expert as the trial proceeded.

Other defense arguments about specific items of evidence to allow were also turned away. There would be nothing, at this stage that would put the fate of Christopher Edwards in the hands of a jury next week.

Monday, March 19, 2007

Finding The Right Jury

It would have been difficult for anyone reporting for jury duty in Douglas County not to be aware that something significant was happening in court that day. They walked around the corner to face a solid line of television cameras taping the Disney World-long line check in at the Clerk of the Court's Office.

As much publicity as the Chris Edwards murder trial as received in Omaha it will be a challenge to find 12 people without an opinion. Pre-trial questionnaires already revealed a striking number of people aware of the case.

The logistics of moving the prospective jurors fell to brand new County Clerk of the Court, John Friend, the son of an Omaha police officer. On Mondays when juries are empaneled it's routine to call up 300 randomly selected residents to cover all of the criminal and civil jury trials underway in the courthouse. Today, they doubled that number. Court staff herded 75 up to the fourth floor, where Judge Derr had temporarily borrowed a larger courtroom to handle the crowd. Only a handful of chairs were left for spectators.

The long slow morning became longer and slower as prosecutors and defense attorneys called each would-be juror, one-by-one, to a back room to ask them about anything they had read or heard about the case. Ordinarily this would be done in open court. It would be a bad thing for either side to have jurors influenced by comments made by others being considered for the panel. The defense team clearly believes it's too late. They left the first round of private Q & A's impressed and distressed with the amount of knowledge they had about the O'Grady case.

While waiting for their private interviews the other jurors killed time talking, napping, or reading crime novels about solving murder cases.

For those selected, they were told to expect a two-week commitment. For their work on behalf of justice they are paid 35 bucks a day plus mileage.

When in open court the accused Chris Edwards has neither appeared overwhelmed or unimpressed with the event unfolding around him. It's standard procedure for defense teams to "clean up" their client when presenting him at trial. Mr. Edwards, fairly well groomed previously, arrived in a dark suit and blue dress shirt. He also, for the first time, wore glasses. One of the prosecutors noted that the minute jurors were out of the room Edwards whipped off the glasses and rubbed his eyes with discomfort.

As Judge Derr welcomed the jurors to court at the start of the day, he reminded them that the jury selection is call Voir Dire by lawyers, a French phrase translating to "to speak the truth." Getting frank and honest answers from so many people can take time, but its all designed to hopefully find a jury who can stand in judgment of a young man accused of murder. "If you had been looking forward to serving on the jury and are not selected," added Judge Derr, "don't take it personally."

Tuesday, March 20, 2007

The Long March To An Impartial Jury

It's called jury selection, but as Douglas County Attorney Don Kliene pointed out late this afternoon, it is more an elimination than a selection.

It is not exciting. There is no way to make it so. Scriptwriters have good reason to avoid the process on "Law & Order." While law must be

followed and the order maintained, it does not provide anything close to drama. And it shouldn't. Everyone involved in Chris Edward's trial knows what is at stake.

Like a number of things in this case, the process has been adapted to account for the publicity and emotional content of the charges. Ordinarily nearly the entire process is public. Weeding out any publicity-tainted jurors gets the highest priority. Next to tampering with a jury, few things will more quickly turn a trial into a mistrial.

So rather than have exchanges with jurors in open court all of the initial questioning about contact with media coverage ended up behind closed doors.

One at a time would-be juror's names are called and each head back to the judge's chambers. Five or ten minutes later they slouch out and slump back into their assigned seat, and the judge's assistant calls out another name.

The entire process turns the bland, fluorescent Courtroom #8 into the quietest airport waiting room you have ever been in.

For the attorney's it apparently is not much more compelling. "We've spent two days asking one question," said one during a break.

By 3:30 this afternoon there were 42 people lined up who at least passed the pre-trial publicity test. For the next hour Don Kliene asked individuals and the jurors as a group their views on the law and general questions about their lives and up bringing.

There are people still in line to sit on this jury whose lives have clearly been shaped by the worst sort of crime. One juror was a family member of a little girl raped and murdered in another high profile case. Another person has known three people murdered. Sitting through this case would "very painful" she admitted.

From the remaining members of the pool each attorney can cross 12 names off the list without giving any reason. Others can still be challenged and the judge will decide if its reason enough to send them home.

Attorneys frequently have trouble with the theatrics and tactics of the opposing side. The team from the Douglas County Prosecutors office would frequently shake their heads, roll their eyes, and look to the judge for relief as Steve Lefler used the Defense team jury selection questioning as a time to advance his case that a very high standard of proof is needed to convict in murder cases, that police may not always be reliable, and that

Don Kliene has his own set of concerns about jury bias. In the legal community its become known as "The CSI Effect." For the prosecutors that means that a jury might have very high expectations for what the police can do with science based solely on what they've read in crime novels or seen on their favorite TV shows. "There's a lot of TV shows on dealing with these things," Kliene noted during jury selection. "C.S.I. Law & Order. This isn't TV. This is real life. It's very unrealistic." The prosecutor asked if any might have difficulty putting aside the fictional version of police work during the trial. The jury pool all agreed they could.

The defense teams fears about a bias among some potential jurors proved to be very real in some cases. Attorney Lefler grew concerned when he read the questionnaire completed by one candidate, a gentleman in the insurance business. “I want to keep you on the jury, but you still scare me,” Lefler said. The juror conceded that he felt pretty strongly that Chris Edwards had committed the murder on trial. Steve Lefler complimented him on his candor, but added, “We get to each (eliminate) 12. You might guess you might be one of my 12.”

Even in the most unnervingly serious of courtroom cases there are flashes of humor. Everyone in the room seems relieved to have a break in the atmosphere.

- Everyone seems quite amazed by the astonishing memory for names both of the competing lead lawyers display. Immediately, and without the benefit of their notes, Kliene and Lefler would address would address each of the 42 candidates by their last name during questioning. “Ordinarily I look good in court because I memorize everyone’s name, joked Steve Lefler. “I can’t do that with Mr. Kliene.”

- The oddest question asked of the potential jurors: “Does everyone own a mattress?”

- When asked if any of the potential jurors knew one another and if so, could they get along in a jury room, two of the pool acknowledged that they were cousins. “We hardly get a chance to see each other,” on said with a big smile, waving to each other from opposite sides of the courtroom.

- The most notable moment of complete agreement in the courtroom came with Lefler asked the jury pool “Do you all understand and accept that the press is not always right? If so, would you say, “I can accept that.” Perhaps a little more loudly than the reporters in the room might have thought necessary, the jurors repeated, “I can accept that” in unison. There were no dissenting voices from the row of journalists.

Through it all Robert Edwards watched from the back row of the courtroom. It is his son on trial. Mr. Edwards, often in the company of half a dozen other family members and friends, takes pages of notes on the jurors and everything else. He has not welcomed contact with reporters.

The contact with his son has been limited by the comings and going of jurors during this process. When Chris Edwards arrives or leave, there are whispered best wish and hand signals. As the courtroom emptied out before lunch, watching four people giving him four different hand signals from across the room, Chris Edwards laughed. He whispered they should just hold up a single “we’re number one” index finger.

Wednesday, March, 21, 2007

The Opening Arguments

Leigh Ann Retelsdorf, deputy prosecutor, opened and closed her first statement to the jury with the same blunt claim: “Jessica O’Grady is not missing. Jessica O’Grady is dead.”

In a case where the victim has never been found… when there is no body on which to perform an autopsy… no death certificate on file to make it official… there is no more important piece of persuasion for the prosecution. “Jessica O’Grady is dead.”

Steve Lefler let everyone in court know about his most daunting challenge when still questioning possible members of the jury. While everyone has heard the phrase “innocent before proven guilty.” It can be very hard to put into practice.

“Let me tell you my fear,” he told the court. “My fear is this is like the wild, wild west. The idea that first we try him, then we hang him. Most people will walk in and assume Chris Edwards is guilty.”

The trial began in full late this afternoon when a strikingly diverse jury was sworn in to hear evidence. Seven women and five men. A wide range of ages. A black warehouse worker. A white media executive. A Hispanic college student. A nurse and a hardware store manager and a stay-at-home mom. The only thing they all have in common is Chris Edwards future.

As a veteran of a lot of criminal trials, Leigh Ann Retelsdorf knows how to spin out a case to a jury. Her opening arguments stuck to a straight line, day-by-day, hour-by-hour theory of what happened to Jessica O’Grady. She calls it “giving jurors a road map.”

Her stark open was an attempt to get past the “Missing” posters that blanketed the Omaha area last year while the search for O’Grady was in full swing. “Missing is a term of hope” for the survivors she told the jury. To try a murder, you have to admit the victim was killed and she is not coming home.

Laying out the night of alleged murder, the jury will hear from Jessica O’Grady’s best friends who got together for pizza on May 10th of last year. Later she’d called a friend right before she said she’d gotten to the home where Chris Edward’s lived with his aunt. A text message to a friend not long after midnight was the last anyone heard from her, according to the prosecution.

The police will be the next to the stand. The Omaha police officers will explain how they came to question Edwards, to search his bedroom, and to find a mattress with an 8 square foot bloodstain on it.

Crime Scene Investigators from the Douglas County Sheriff’s Department will testify about examining blood splatters around Chris Edwards’s bedroom, determining what had been used to paint it over, and getting a surveillance video tape from a Walgreen’s showing Edwards buying white poster paint.

“Rarely in a murder like this is there a witness,” said Retelsdorf, adding that science has made “the crime scene the most reliable witness.”

The image… the very disturbing image… the prosecution may want the jurors to dwell on will come from the analysis of the blood spatter experts. The blood "cast off" that made red spotted lines on the ceiling indicates there were multiple blows to the head from the alleged weapon, known as a Bangkok fighting sword.

"The blood on ceiling shows at least seven linear cast off patterns. You don't get that pattern on the first strike." Retelsdorf explained that there is no blood on the weapon yet. "You do get it the second, the third, fourth, fifth, sixth, seventh, and eighth." Between each number she lengthened her pause to let the image sink in with each juror.

For Steve Lefler this is not a case to prove, but to disprove. His opening statement did not set out a single alternative theory of what happened, but a number of scenerios of what might account for individual elements of the case against Chris Edwards. He'd let the court know during jury selection that the concept of providing "proof beyond reasonable doubt" would be put to the test in this case.

He told the jury he's ready to challenge any of the medical and science professionals who take the stand with a basic premise: does the mere appearance of this blood equal death? Lefler says they will almost certainly say 'no it does not.'

Questions will be raised about other possible sources for the bleeding. Perhaps menstration. Perhaps a miscarriage. Does it have to be homocide? The defense argues 'no, it does not.'

The defense will challenge the validity of DNA evidence in proving that it is in fact blood from Jessica O'Grady.

There will be doubts raised about motive, about the accuracy of police reports, and even about whether Chris Edwards is physically fit enough to carry the body to the trunk of his car.

The defense made clear it intends to give quarter on no element of the State's murder case against Edwards. "The State has to prove she's dead and that Chris had reason to kill her," he concluded. He added that every juror has to ask the same question: "Has the state given me everything I need to make the most important decision I will ever have to make. I am telling you, they won't be able to do that."

For the man on trial, there may be one great hope stated by his defense attorney at the start of his opening argument. "One piece of evidence has already been put before you," Steve Lefler told them. "Mr. Edwards is innocent before proven guilty. Keep in mind that burden of proof."

Thursday, March 22, 2007

The Dramatic Case Against A "Peaceful Guy"

When a man brandishes a two-foot long battle sword in a crowded courtroom, it gets your attention.

Mid way through this afternoon's testimony, prosecutor Don Kliene surprised nearly everyone by reaching into a cardboard box under his

worktable. With a whoosh and a metallic clang, he pulled out what may be the weapon that killed Jessica O’Grady.

If there was a collective gasp in the courtroom, I was too surprised by the sight to hear the reaction.

On the witness stand was Chris Edwards’s good friend and golfing buddy, Riley Wasserburger. He’d just testified that Edwards had shown him a pair of Bangkok fighting swords. “That’s the sword Chris showed me.” Wasserburger had estimated it at maybe a foot and a half long. Prosecutor Kliene is a big guy, and even in his hand, the weapon seemed huge.

There are moments every attorney hopes a jury will take with them into deliberation. This is likely one of those moments. Today was the first day of testimony.

It did not take long to figure out that what wasn’t being said and what couldn’t be said in court would play a significant role in Chris Edwards’s murder trial.

The objections from the County Attorneys were frequent and shared the same theme. What can be said in front of the jury about talk among friends that the missing and presumed dead Jessica O’Grady was pregnant?

The only thing prosecutors want to establish is that Chris Edwards may have thought he had fathered children with two women at once and may have murdered one of them in an act of desperation.

The defense wants to take it further. Whether Jessica was pregnant at or near the time of her death may open the opportunity to raise whether a miscarriage could have caused her death, whether she is still alive and fled in her own act of desperation, and perhaps more subtly in a reflection of her character and stability. So far, the prosecution has successfully fended off most of the slow-drip revelations that could bring more information about Jessica’s pregnancy into play.

The actual testimony at today’s trial may have not been sensational, but it was essential.

Shauna Stanzel has been the community’s link to the O’Grady case since the disappearance last year. She organized the initial searches, dealt with the media, and served as the primary liaison to the police. Not only was Stanzel her aunt, but also at times served as something of a surrogate parent while Jessica’s mother “got it together.”

Stanzel, the opening witness for the prosecution, served two purposes. This was the first opportunity to put a face on the woman missing and presumed dead. Just as importantly, O’Grady’s aunt was one of the last people to see her before the disappearance.

During dozens of interviews over the past year Stanzel has been a model of composure. There were times on the stand today that her emotions caught up with her. Not only did tears well up when presented with Jessica’s high school photo, but even reciting the girls cell phone number… a number she’s call three or four times a day… somehow struck a painful nerve.

O’Grady’s friends and roommates, Holly Stumme and Tracy Lee Christianson filled in the rest of what’s known about Jessica’s last hours while on the witness stand.

Together the painted a picture of a young woman who could not have been more normal. She took classes at UNO. At one point she wanted to study law, but had recently switched to be an education major. She helped her aunt coach a softball team for 6 and 7 year olds. The last time Shauna Stanzel saw her niece Jessica was wearing a purple team jersey that all the girls on the team had signed.

She and Chris Edwards both worked at Lone Star. Jessica was a server, Chris also waiting tables and working the bar. They hadn't gone out very long, but her roommates said when they saw the couple together they were laughing and "flirty."

Jessica talked about Chris on the night of May 10, 2006. She used her cell phone to send text messages to someone throughout the evening. She and her roomies had pizza, before showering and doing her make up and hair. When she left, everyone assumed she was going to see Chris Edwards.

Another friend testified she'd gotten a call from Jessica saying she got lost in the suburban tangle of streets near Chris's house. A text message that showed up after midnight playfully told her friend: "No shenanigans for Jessica." It was their best friend's code word for sex.

No one would have any contact with Jessica O'Grady again.

In the days that followed upset friends and family knew something was wrong when they couldn't reach Jessica. They went anywhere they thought she might be. They talked to her co-workers. Chris Edwards told them he hadn't seen the girl since the day before she disappeared. The two of them had plans to get together again the next day, but he had cancelled. Edwards called a couple of her friends through the first weekend of her disappearance to find out if anything was new.

Chris Edwards hung out with his friends the same day that Jessica vanished. There was golf early in the evening followed by a late movie called "An American Haunting."

It was on the golf course, at the first tee, that Edwards told his friends he had "made a mistake." He had gotten a girl pregnant. If he mentioned a name, his friend Riley couldn't remember who it was. They parted after the movie.

He hadn't seen his friend again until today, as they sat in court across from one another. "He's a pretty peaceful guy," Wasserburger told the court. "I've never seen him angry before."

Friday, March 23, 2007

The Investigators Take The Stand

Landing fighter jets on an aircraft carrier was good training for investigating a crime scene, according to Dave Kofoed. He told me that as the lead CSI investigator for the Douglas County Sheriff's Department the same sort of mental focus and organization he needed to be a Marine pilot came in very handy.

That organization as well as his military bearing came to good use in court on Friday. Much of the responsibility for proving that Jessica O'Grady is dead and that Christopher Edwards murdered her rests on his shoulders and those of his team of investigators.

Anyone routinely watching any of the television crime dramas would have had a good feel for the testimony at Chris Edwards trial today. It also served as a reminder for how different the real world can be from a well-written script.

The evidence is fascinating. The testimony can be tedious.

It was also the first time the jury, and perhaps those closest to Jessica O'Grady, had the unnerving image of what the State claims is her blood at the scene of the crime.

The Omaha Police Department started on this case when Jessica O'Grady disappeared in May of last year. A week later it became the primary responsibility of the Douglas County Sheriff when it appeared the murder scene was just outside the city limits.

Again today, the presentation of evidence kept to a steady timeline. After hearing from the last people who saw Jessica alive yesterday, jurors picked up the story when her car was found one week later.

While the car may not have yielded many clues, for the jury it was another small window in the life of an average young woman living her average young life. The crime scene photos show a mildly cluttered car. In the backseat lay her notebooks from her college classes with her name handwritten along the top. An empty Mountain Dew bottle rolled around behind the driver's seat. On the passenger seat was something she's purchased from a craft store on the last day she'd been seen, along with a red and blue softball glove. There'd been a game for the team of 7 year olds she helped coach that she never showed up for the previous weekend.

The car had been found in a parking lot near the Lone Star Steakhouse in west Omaha where Jessica (and Chris Edwards) worked. There was little evidence found to indicate how it got there without the owner.

The Omaha Police Investigators hadn't found any DNA other than Jessica's in the car, and no fingerprints other than her roommate's. It was Edward's attorney Steve Lefler who had to ask the obvious of Mark Strangland, OPD's Senior Crime Lab Investigator. It made for a brief moment of black humor.

> Lefler: You did not find a body?
>
> Strangland: We did not.
>
> Lefler: You would have told us about that if you had?
>
> Strangland: We might have even have had a picture of it.

Nearly every essential bit of evidence for this case was found in Chris Edward's bedroom and in or near his car.

The Omaha Police investigators working on the missing persons case had brought Edwards to police headquarters and talked to him for a couple of hours. It is interesting that none of that statement has been introduced into evidence. Chris Edwards own words will apparently not be used to make a case against him.

After the interview he and his aunt, Jean Edwards, gave the officers permission to look around their home. There was no search warrant. Jean

Edwards made a comment on how clean the room appeared. Detective James Arndt agreed.

Lefler: Do you know what a 19-year-old's room looks like?

Arndt: I remember what my bedroom looked like.

Lefler: Was your room cleaner or neater than Mr. Edwards?

Arndt: My room was not that clean.

Detective Arndt looked through Chris Edwards Honda Accord (which was a cluttered mess) and found a dirt covered shovel in the trunk. Shortly, the other investigators on the scene called him back into the bedroom.

They'd spotted what they took to be blood spatter on the headboard. Just as one Detective was about to pull up the bedspread Ardnt claims Chris Edward's said, "I'm not sure I want you checking that area." Ardnt reminded him that they'd talked about the possibility that O'Grady had taken her own life. Maybe, he added, there would be a suicide note that she'd left to be found later. It seems surprising, but that was enough for Chris Edwards to agree to have them lift the bedspread. That was when the discovered the dark red stain seeping through the mattress.

Lifting the mattress lead the Omaha Police Detectives to believe that something very bad and very violent had occurred in the room.

It was an alarming photograph shown to the jury. Some had wondered at the start of the trial if it might be too much for some of the panel to take. Their reactions were subdued, even passive.

That set the stage for Dave Kofoed's testimony. After a search warrant came through, it was up to his team, over the next nine hours, to process what had become a suspected crime scene.

Kofoed had given me a short preview of the evidence he was going to present last month as part of NET Television's documentary on preparing and training CSI specialists.

He explained that the size of the bloodstain on the mattress was reason enough to assume someone had been fatally injured. A week after the blood had allegedly been left, the bottom of the flipped mattress was still damp and sticky, so great was the fluid left behind.

The range of the blood splatter, clear across the 15-foot wide bedroom, indicated to him that something had struck someone with great force.

Kofoed claims there were three signs that a deliberate attempt was made to conceal something had happened in the bedroom. First, there were the "plug-in" air fresheners in every available outlet. Second, there seemed to be a white substance covering a number of dark stains on the ceiling. Finally, the lab technicians used a chemical called Luminal on the wall where there appeared to be no blood splatter.

Sprayed on a surface in a dark room, Luminal causes certain substances, like blood, to glow like blue neon. The photo of the wall in Chris Edwards bedroom shows floor to ceiling bright blue swirls of light, like an astronomers photo of a far away galaxy. If the CSI investigators are right about that being blood, it leaves the impression there was an

attempt to wipe the wall clean with only the invisible-to-the-naked-eye residue left behind.

Tall, bald, and serious, Kofoed is well aware that how you present a case can be as important as what you present. He and every member of his team show up in court in their Para-military style CSI uniforms… shiny black boots, tailored pants and dark blue shirts with gold "Crime Scene Investigator" embroidered on the back. The photos and diagrams of the crime scene are presented in the manner of a polished, high-tech PowerPoint. Kofoed draws attention to important details with his laser pointer.

There's not much to write about concerning the Edwards defense team after this day in court. Attorney Steve Lefler found himself frustrated time and again when raising objections to evidence. In pre-trial motions he had asked that all of the material collected in two searches of the home be thrown out on constitutional grounds. The judge said no then, and every attempt to raise the issue again today was rebuffed.

Which is not to say there was not tactical groundwork laid. Questions may still be raised about the manner in which evidence was processed, and the methods used. But the cross examination of Dave Kofoed, as well as the testimony of the rest of his CSI investigators will wait until after the court's weekend recess.

Monday, March 26, 2007

The Girlfriend and the CSI Team

Jessica O'Grady has often been referred to in news reports as Chris Edwards's girlfriend. It must be horribly uncomfortable for a 19 year-old girl to have to testify under oath that, for over a year, she has been Edwards's real girlfriend. She is the one to whom Edward's talked to about marrying; the one who gave birth to his baby daughter named Macy; the girlfriend he was unfaithful to; and the girlfriend who remains faithful to the young man on trial for murder of that other woman.

> Defense attorney Steve Lefler: Are you still talking about getting married?
>
> Michelle Wilkin: Yes.
>
> Lefler: Is he a peaceful guy?
>
> Wilkin: Yes.
>
> Lefler: Were you afraid when you saw those swords?
>
> Wilkin: No.
>
> Lefler: When you told him you were pregnant was he supportive?
>
> Wilkin: Yes
>
> Lefler: Did that surprise you?
>
> Wilkin: No.

It was just one set of moments during quietly emotional and uncomfortably explicit testimony from Ms. Wilkin. She may be supporting Chris Edwards, but it was the Douglas County Prosecutor who called her as a witness to

give the jury an idea of why Edwards might have had reason to murder Jessica O'Grady.

The start of the second week of the trial also showed what a split personality these events can have for everyone involved. The riveting personal story told by Ms. Wilkin was a counterpoint to the methodical and technical groundwork laid for the most important hard evidence to be introduced… the analysis of the Douglas County CSI team and it's compliment of forensic experts.

No one (other than the prosecutors) seemed to expect Ms. Wilkin's trial appearance to be dropped in today between that of the two crime scene investigators. The 19 year-old beautician-in-training seemed to go out of her way to avoid eye contact with Edwards in the courtroom, while providing every bit of support she could while under oath. The defendant remained just as impassive as he has been through much of the testimony, only occasionally tightening his down-turned lips.

The two had met while working together at the Lone Star Steakhouse in 2005. By the end of the year they became "very good friends" and began sleeping together on occasion. In January of 2005 Wilkin learned she was pregnant. Two months later they had "serious talks" about their relationship and "gave it the title of boyfriend and girlfriend." They decided at that point to see each other "exclusively."

But a lot happened their relationship just a few weeks later. Jessica O'Grady's roommate testified earlier that her friend had started seeing, and apparently also sleeping with, Edwards by early May last year. Then O'Grady disappeared.

It was a surprise to Ms. Wilkin that the police would be asking her anything about the disappearance of another girl who she did not know, and that the investigators were linking her to Chris Edwards. Only after the police questioned her, and Wilkin asked for an explanation did Edwards admit he had been unfaithful. The only reason he was being questioned, he explained, was because phone calls to him had shown up on O'Grady's cell phone.

He claimed he told Jessica O'Grady they could not longer see each other when they met for the last time on May 8th. That same day, Wilkin revealed, was the first time Chris Edwards talked about getting married.

Two days later was the last time anyone saw Jessica O'Grady alive.

Wilkin had been over to Edwards's house briefly May 10, just a couple hours before Jessica O'Grady had told friends she was heading over. It was 12:20 AM when the last text message was sent from O'Grady's cell phone. It was 12:58 AM when Michelle Wilkin's got her own text message from Edwards: "I love you. Good Night."

No matter what occurred in Chris Edward's basement bedroom, the testimony that followed from Michelle Wilkin was unnerving for anyone who had been in the courtroom since the start of the trial.

Earlier the photos of a blood saturated mattress brought by the lead CSI investigator had been removed from the courtroom easel. In the witness chair Ms. Wilkin's calmly explained how her normal routine of visits to

that bedroom continued for another week after… if what prosecutor's claim is true… Jessica O'Grady was murdered.

Wilkin: We would watch TV on his bed. We probably laid on the bed for an hour. That's usually what we did.

Prosecutor Don Kleine: Did you seem him Saturday?

Wilkin: I think I spent the night. That Sunday was Mother's Day. It would have been Saturday.

Kleine: Where did you sleep?

Wilkin: In his bed.

Kleine: Notice anything unusual?

Wilkin: No.

She said there was nothing odd about the look of the room or in Edward's behavior during that week. He did mention to Wilkin that his room, including the walls, got a through cleaning that same week. She didn't find that unusual. "When he cleaned, he cleaned a lot," she explained.

The condition of Chris Edward's room remains the centerpiece of the prosecutor's murder case. On either side of the Wilkin's testimony were members of the Douglas County Crime Scene Investigation Unit.

The photos of the bloodied mattress, blown up to six-foot enlargements, were a constant presence in front of the jury. In front of them was the 8 square foot bloodstain, roughly the shape of the curved top of a grand piano. Other photos showed that in places the blood had soaked down an inch and three-quarters into the foam.

Lead Crime Scene Investigator Dave Kofoed explained how samples were taken at the scene from the mattress, from the walls, and from a number of objects) where blood had apparently been sprayed across the 15 foot length of the room.

The defense raised two potentially damaging points during questioning about the suspected weapon in the case: the ornamental swords Chris Edwards's owned. First, there are fingerprints on the weapon, but they are not the same as the accused. No one can say where those came from. Secondly, the swords and a set of knives were not found until a second search of the Edwards's home, hidden in the closet. That closet had been searched earlier leading defense attorney Lefler to ask, "Can we reach the conclusion that he did not do a very good job or that the swords were not there previously. Is that correct?"

"Yes," replied Inspector Kofoed.

The defense also has been reminding jurors that the first Omaha Police detectives on the scene who were handling evidence did not wear protective gloves initially. Kofoed testified that his group's standard operating procedure always calls for investigators to wear gloves, but added that he felt secure in knowing that the OPD officers, like his own, had also been trained in how to properly handle evidence without gloves as well.

But tests did reveal blood on one of those swords, and a University of Nebraska Medical Center DNA expert is expected to testify Tuesday that tests prove it be that of Jessica O'Grady.

Tuesday, March 27, 2007

DNA Does Not Speak For Itself.

When a criminal trial involves clocking the speed of a car, hardly anyone questions whether the very concept of radar gun works. If a drunk's Breathalyzer results become part of the court record, it's rare that the science behind the blood alcohol level is challenged as a valid concept. Time, technology, and familiarity can eventually establish some science as commonly accepted and understood fact.

Maybe DNA will get there someday. It's not there yet.

Meanwhile, using DNA as part of a case to prove the guilt of someone like Chris Edwards sits in an interesting middle ground. It's pretty reliable science. Most jurors know just enough about DNA… from TV crime shows to the O.J. Simpson trial… to be both informed consumers and dangerous interpreters of the data.

Challenging DNA evidence can be a very difficult line of defense for lawyers attempting to establish the innocence of a client. A big part of the activity in Douglas County District Courtroom #9 today involved a technical, at times mind-numbing, effort by Chris Edwards lead attorney to of undermine the methods used by DNA labs across the country in general and of the University of Nebraska Medical Center quite specifically.

Melissa Helligso, the Forensic DNA analyst from UNMC first took the stand Monday afternoon. Today, she was the only witness during a grueling full day in the witness chair. Crisp and professional in appearance and delivery, Helligso explained how UNMC's lab been hired by the prosecutors to analyze evidence tied to the Jessica O'Grady case.

For the prosecutors, establishing the integrity of the tests and the accurate identification of individual blood samples collected took a tremendously long time. Everyone seemed eager to get to the point: whose blood did they find at the crime scene?

The DNA profiles Helligso's lab produced were illustrated in two ways: a set of spiky line graphs and a series of large, number-choked charts displaying numbers assigned to the range of characteristics that identify someone's DNA as unique. The grid of numbers looks like the Keno Board From Hell.

To help guide the jury though the blur of numbers, prosecutor Don Kleine had a 6-inch by 3-foot rectangle of poster board printed that listed only the test result numbers that identified Jessica O'Grady. With the larger chart on the easel, he could line up the O'Grady results with the DNA identifying numbers from each individual piece of evidence tested. Again and again the numbers listed from the DNA pulled off of Jessica O'Grady's toothbrush and clothing as samples, matched the blood found in Chris Edward's home.

The prosecution argues this proves the young woman's blood soaked the mattress, spattered the walls, ceiling and headboard, stained two towels found in the trash, dripped in the trunk of Edward's car, spotted a pair of hedge clippers, and remained on the blade of the sword found in Chris Edwards's closet.

Surprising new information: Chris Edwards DNA also turned up on the steering wheel and gear shift of Jessica O'Grady's car. No one in court has offered any theory about how the missing woman's Hyundai ended up in a parking lot near where they both worked. A law enforcement official told me that Edwards had specifically stated in his police interview that he had never been in O'Grady's car. At this point the only way that statement would get into the court record is if Edward's testifies himself.

Steve Lefler put the prosecutions DNA expert through the paces much of the day with questions about what brand of swabs are used to collect samples, who quality control is done, specific pieces of lab equipment (did you know that UNMC uses the ABI-310 as us fluorescence detector?), and specific procedures for highly technical lab tests.

There were two obvious effects in the courtroom. For the witness, it became increasingly frustrating to be asked questions about lab minutia that were clearly designed to undermine the integrity of her work and of her laboratory. As the afternoon wore on, Melissa Helligso's voice took on the short, terse tone of a customer service operator who wants to end your complaining phone call.

The second effect was on the jury. The hardest part of being a juror can be hearing an entire series of questions being asked, and long stretches of information laden answers given with no idea what is being discussed.

While the jurors stayed awake, the facial expressions of many indicated they found themselves either lost or indifferent. It was a marked difference from when the earlier technical evidence from the CSI witnesses presented with photos and charts and attempts to provide English-language-translation for the science based terminology.

Often question and answers come up during testimony that just don't seem to make sense. Terms are talked about that you've never heard of. Points are being made that seem to have no context at all. These are times when information is being collected from one witness that will only become relevant, and the purpose obvious, with the testimony of a later witness.

Lefler says he may still call his own expert on DNA test procedures to punch holes in the UNMC expert's testimony. The prosecution has not yet been given the name of any such counter witness.

There is one last crucial stage in the forensic science portion of the trial for the prosecution. Having set the stage by explaining how the scene was processed and how the blood was analyzed and identified, another set of experts will explain what the patterns of the bloodstains and spatters reveal about what may have happened in that bedroom.

Random Observations

- There is no doubt is this a tremendously expensive trial to bring to court. The large exhibit photos, the cost of bringing in expert witnesses, and the staff time for the state will run up quite a bill. One line item was noted in court today. Each test of a DNA specimen run by UNMC cost the county $500. There were 50 specimens. And that's only part of the cost. The kit containing materials needed to

duplicate the DNA strands for examination run into the thousands of dollars apiece.

- Some comments overheard reveal how even the most trivial things about witnesses may make an impression. While Melissa Helligso, the Forensic DNA analyst at UNMC waited off to the side of the courtroom, one woman commented to her friend “the DNA girl has really cute hair!” It is not clear whether “cute” plays in favor or against a member of the American Society of Crime Lab Directors.
- During the testimony of the UNMC DNA expert, the size of the “chances of an exact match” ratios were staggering. One in 6.2 trillion. One in a sextillion. One in 1.96 quintillion. Reporters talking about testimony during the break were almost giddy at the chance to use such monumental numbers. How often, after all, do you get a chance to use an 18-digit number on the six o’clock news!
- Steve Lefler’s objections have been the most predictable element of the trial. He would not be serving Chris Edwards well if they weren’t made, but the persistence and consistency of them seem remarkable. Most of those who have been in court since the beginning can recite them right along with Lefler: Lack of foundation. Hearsay. The Pretrial motions to suppress any evidence found during the searches. The form of question. Just as familiar is Judge Derr’s reply: your objections are noted and denied.
- It is not uncommon for an attorney, when they’ve started a sentence that they want to rephrase to say “strike that” as an instruction to the court reporter to drop it from the transcript. It was a sign of a long, tedious morning when Defense Attorney Lefler stopped in mid-sentence and blurted out “Strike Me!” When the laugher died down, Lefler shook his head and said, “I hope no one does. Please strike the sentence from the record.” The equally amused Judge Derr thought that was a sign that it was a good time to break for lunch.

Wednesday, March 28, 2007

When Raising Doubts Is The Only Defense

The day started with Defense Attorney Steve Lefler again failing to get important testimony against his client thrown out of court.

The day ended with Lefler apparently making a decision to call few, if any, witnesses. The trial of Chris Edwards is suddenly racing to a conclusion.

Just as it seemed the trial would take longer than the promised two weeks, Judge J. Russell Derr surprised the jury and the courtroom audience with word that closing arguments would likely be completed by Friday noon.

With the county prosecutor’s blood spatter expert likely to take up much of tomorrow’s time on the witness stand, that means the Defense will not use many of the 18 witnesses it subpoenaed and been prepared to call to testify.

Who probably won't be testifying? There will be no expert to counter two days of testimony identifying DNA from Jessica O'Grady and Chris Edwards. There will be no counter-expert to question the methods of the Omaha Police or Douglas County CSI investigators. There will be no medical experts testifying about possible alternate sources of the blood that soaked the mattress. No one to put Chris Edwards anyplace else but his bedroom the night O'Grady disappeared. And there will be no character witnesses to go beyond the testimony of his current girlfriend that Edwards is "a peaceful guy."

When veteran Omaha criminal attorney Bill Gallup was interviewed this week about the Edwards case the best he offer up about the defense was "they have a tough case." That was borne out in court again today. Before the jury returned, Steve Lefler asked Judge Derr to disallow the six-plus hours of testimony from the forensic DNA specialist at the University of Nebraska Medical Center. The motion was a non-starter.

When the specialist's boss, lab director Dr. James Wisecarver took the stand he added weight to the DNA testimony by calming talking through how quality control procedures are used to assure the integrity of the lab work.

And once again, the jury heard the phenomenally high odds that that the blood and skin found by police could be anyone else but the missing O'Grady and the accused Edwards. In the case of the samples taken from the bloodied sword, the odds are 1 in 938 billion that there could be another Caucasian with the same DNA as Jessica O'Grady. For the DNA found on the sword handle, the chance of a match between Chris Edwards and another Caucasian is 1 in 4.68 million.

Throughout the cross examination Lefler raised a couple dozen issues designed to raise doubts the validity of the state's scientific evidence, but none of his questions were ever backed by citations from scholarly journals or research that dealt directly with this type of DNA identification. The questions largely had the sound of "…what if…" and "…how about this…" rebuttals.

There were attempts to also knock out Dr. Wisecarver's testimony. In two lengthy sidebar discussions with Judge Derr, co-counsel for the defense, Denise Frost made what appeared to be impassioned (if whispered) arguments. Each time the bench turned down the requests.

At every turn Derr has noted but denied Lefler's requests that evidence collected from two searches of Edwards's home be kept from the jury. None have worked. It does provide the raw material for an appeal should his client be convicted.

Wednesday's last two witnesses wrapped up the work of the Douglas County CSI specialists. Investigator Josh Connolly had prepared a computer-generated version of the Edwards bedroom that showed the location of nearly all the bloodstains around the room. Large printouts of the graphic were presented to the jury. (A few weeks before the trial began I had the chance to see a much cooler animated version of the computer work that actually moved from the garage to the bedroom and gave a 360-degree view of the scene. The prosecutors did not introduce that as evidence.)

Connolly’s time on the stand might have given the Defense a chance to again bring up one of the unresolved mysteries of the trial. There were two searches done of the Edwards house on two different days. It was only on the second search that the swords were found in the back of Chris Edwards’s closet. The investigator’s boss, Dave Kofoed, had earlier conceded on the stand that either Connolly missed them completely or they had been placed there after the first search. Either way, it is something that could raise questions, but Lefler mostly let the matter slid.

> Lefler: You did a professional, through job.
>
> Connolly: Yes
>
> Lefler: And you did not find them?
>
> Connolly: No
>
> Lefler: Clearly if they were there you would have found them, correct?
>
> Connolly: That is correct.

And that was it. If there were going to be any accusations of sloppy police work, they likely would have been raised at that very moment. It had to be a relief to Kofoed & Co. that it was not.

Lefler did take a mild stab at the investigator’s relative inexperience as a CSI team member. Having heard that Connolly will be getting his Master’s Degree in Criminal Forensics from Nebraska Wesleyan later this year, Lefler began his cross-examine saying “congratulations on graduating… soon.”

Experience was not a factor with the day’s final witness. The fingerprint expert for Douglas County is a 31-year veteran of police work.

Again, it was the sword. CSI Investigator Donald Veys said there were six fingerprints on the weapon. Three of them were not complete enough from which to get a positive identification. Three other prints were not complete enough to get a definite identification, but they were adequate to exclude certain people. Investigators had taken prints from half a dozen people who might have handled the sword. Most of those clearly had prints that were definitely not matches. The prints of Chris Edwards had enough similar characteristics that they could not exclude him from consideration. One of the prints was also similar to the right thumb of the hand of Robert Edwards, the father of the accused. He was not excluded from the list of those who might have handled the sword as well.

The final, and potentially most intriguing scientific evidence will be heard on Thursday, when the prosecutors bring in on the country’s leading blood spatter experts to explain what can be learned from examining the patterns of the spray found on the walls and ceiling.

……

There’s been some discussion about how “big” a trial this has become in the area, and how it compares to other trials of note. During jury selection, veterans in the Clerk of the Court’s office said it was the largest set of potential jurors solicited since the Michael Ryan was charged with the Rulo cult murders. Earlier the World Herald noted that

spectator interest was the largest since former priest Daniel Herrick was in court for molesting the boys.

If there is a third measure of how big a trial is, it's what is overheard over lunch or just on the street. By that measure, it's big. I'd be hard pressed to recall an Omaha event, beyond something that effected many people around town individually, that brings on such animated discussion. When two people munching their sandwiches while walking down 18th Street are discussing the specifics of blood spatter evidence, then it's a criminal case that has truly captured the public's attention.

There has been no national media covering this trial. That's understandable. The case is fascinating, but without camera's in the courtroom or a bizarre or headline grabbing hook (Victim met killer on MySpace! Sex Change Murder for Hire!). The cable news and crime-of-the-month network magazines don't have much interest in a fascinating, but very local, murder case. That may still change. There have been inquires made to reporters and some of the key figures in the case from TV newsmagazines 20/20 on ABC and Dateline on NBC.

Thursday, March 29, 2007

Hired Guns and Loyal Friends

The prosecution rested its case. The defense made a plea to have it all thrown out. Chris Edwards started to cry.

On the ninth day in the stuffy and sticky courtroom of J. Russell Derr, the most impassioned discussions arose when the jury was out of the room. The prosecution had completed questioning of their final witness (more on that later).

It's not uncommon for attorneys to make, as it was phrased by the defense, "the half time motions" when the field is turned over to the other side. (Defense lead Steve Lefler has, in fact, played a lot of football).

But the arguments put forward today did come in greater detail and with higher passion than the norm. The Judge was asked to throw out the murder charges against Chris Edwards before the case goes to the jury.

Without Jessica O'Grady's body, Lefler argued, without a death certificate or a medical expert to say she died there can be no case for murder. "No one has said this blood loss could cause even a loss of consciousness," much less death, added co-counsel Denise Frost. "We are giving the jury the authority to do something that no doctor can do, that no expert can do."

After weeks of hearing similar arguments, Judge Derr did not appear especially sympathetic. "Taken to its logical extreme," the judge added, "you're saying that in any murder case without a body, there is no case."

Not so, countered Lefler. "If they came in and had Jessica O'Grady's brain on the pillow and a doctor said you can't live without your brain, that would be proof."

The Douglas County Prosecutor barely spoke in response. "The State feels very strongly that, with the overwhelming circumstantial evidence, we have proven our case." (I was reminded just this morning by Creighton University law professor Michael Fenner that in the eyes of the law,

circumstantial evidence carries equal weight with eyewitness and expert testimony.)

Judge Derr reminded everyone he'd been warned there would be some tough calls to make this case. He then overruled the Defense motion, because he believes "there is sufficient evidence to at least present to a jury."

The last of that evidence did little more than bolster a great deal of the case already presented. Two members of the Douglas County CSI unit brought their specialties to the jury. Deputy Jennifer Tinsley spent days tracking down who made and received nearly a thousand calls on the cell phones owned by Chris Edwards and Jessica O'Grady.

Concentrating on the last two weeks before the girl's disappearance, Tinsley laid out a busy routine of teenaged phone chat among a group of friends and co-workers. The records show that at 11:48 PM on May 10, 2006 O'Grady's cell made a 21-second call to Edwards's cell. She had told her friends she was on her way to see Chris. Even Edward's other girlfriend, Michelle Wilkin, testified that it was routine to call ahead so he could let visitors in privately through his Aunt's garage door.

A minor but notable detail came out of the brief testimony of Deputy Matt Churchill, the Sheriff Department's computer expert. The investigator's forensic dissection of Chris Edward's laptop revealed he was doing research on the Internet the day before O'Grady may have been murdered. The single word he entered for a search on Google was "arteries". The medical web site Edwards visited next displayed diagrams of the human circulatory system for study. There was not, Deputy Churchill admitted during cross-examination, any way to confirm that the defendant was the one using his laptop at that moment.

The final prosecution witness carried the most impressive credentials, but much of what he had to offer on the record had already been assumed. Criminal Forensics expert Stuart H. James wrote the book… or at least one of the books… about analyzing the ways blood gets spread around crime scenes. The testimony was important enough, and interesting enough that several Deputy County Attorneys and Sheriff's deputies joined the spectator's gallery.

Stuart James is a hired gun working for $250 an hour out of his office in Fort Lauderdale, Florida. His clients, he claims, are more often than not people defending murderers rather than those prosecuting them.

This prosecutor, Leigh Ann Retelsdorf, lead James through each area where blood was found in Chris Edwards's bedroom and car and asked what could be determined from what had been left behind. To trace the path of a drop of blood, spatter experts use geometry, biology, physics, and more, along with the study of nearly every type of surface that might be on the receiving end of a victim's bodily fluids.

The blood soaked mattress? "My overall conclusion is a significant bloodshed event occurred on or near the mattress."

The droplets on the headboard? "The source of the blood was over or close to the top surface of the mattress."

The lines of blood spots on the ceiling? "I determined there were seven overhead swings with a bloody object."

Did the lines provide clues about the type of object? “The linear pattern I saw was consistent with a thin object rather than a broad object.”

At that point Retelsdorf had James examine the sword found in Chris Edwards’s closet.

> Retelsdorf: Were the seven cast-off’s you saw consistent with an object such as this?
>
> James: Yes.
>
> Retelsdorf: You can’t say it is THIS object.
>
> James: No, and I would not.
>
> Retelsdorf: But an object LIKE this?
>
> James: Yes

With the addition of those final pieces of the “road map” prosecutors promised the jury at the start of the trial, they rested their case. Once Judge Derr ruled that the case against Edwards would proceed, so did the rapid-fire parade of defense witnesses.

Over the next hour, thirteen relatives and friends of Chris Edwards rushed through testimony that consisted of testimonials. Oddly, there were tight limits on what could be said in support of his character. “Is he a peaceful man?” Lefler would repeat for each witness. Each said he was. Anytime anything else was said on his behalf, it was stricken for the record. “He’s a very good man,” added his youth pastor. The jury was ordered to ignore it. “He’s a great person,” said his former boss. That won’t be part of the transcript.

Two former girlfriend’s stood up for their ex. It lead to a very queasy moment for one young woman. She’s 19 now. Apologizing for posing such a personal question, Edwards’s attorney asked, when they had been close a few years ago if they had “made love together.” She quietly said they had. Lefler has repeatedly asked questions advancing a theory that the large bloodstain on his client’s mattress could be menstrual blood from lovers. Lefler asked the girl if the couple had ever had sex during her period. She said they had.

The obviously nervous girl may not have even noticed the huge photograph of the bloody mattress still on display next to her. Taking a deep breath, Prosecutor Retelsdorf marched up to witness stand, turned the photo towards the girl and asked if she could have stained the mattress so thoroughly. The girl looked like she might be ill and replied, “no.” No other witness during this trial looked more shaken leaving the courtroom.

Ever so briefly family had their time to stick up for Chris Edwards. His stepmother and stepfather both agreed the boy was peaceful. Then LaDonna Barrett took the stand. “I’m his mom.” Like the rest, she was only allowed to say it was a very peaceful boy that she’d known “from birth to age 18.” Sometime during all of this, for the first time in this trial, Chris Edwards cracked. He began crying quietly with a tissue clenched tight in his fist.

The family and friends who testified today had been kept in the hallway by court rules until now. At the end of the day it was a larger group than usual that lined up to softly offer their encouragement. Edwards regained

his composure and silently greeted each person on the other side of the court railing with smile and a raise of his impressive bushy eyebrows perched above slight features. As soon as the family left the courtroom, the lightness vanished again. Some started crying out of sight of Chris.

The jury will probably begin its deliberations on Friday afternoon.

Friday, March 30, 2007

To The Jury

If Christopher Edwards did murder Jessica O'Grady, Douglas County had only one chance to prove it and one chance to convict him. That's the law. Should the woman's body be recovered, revealing new and damning evidence, it will not matter if Edwards is found innocent this time. You've heard the term "double jeopardy." In a courtroom that means you can't charge someone twice with the same crime, even if new evidence comes to light. We should know shortly if that legal gamble falls to the favor the Prosecution.

If Christopher Edwards did murder Jessica O'Grady, he and his family apparently had a number of opportunities to strike a bargain before he was lead into the courtroom in his new gray suit. The deal would have been simple, according to more than one law enforcement official familiar with the case. "Tell us where she is." But Christopher Edwards has maintained his innocence all along. At 3:15 Friday afternoon 12 total strangers will decide if he's telling the truth.

The closing arguments for this case, stretching over more than three and a half hours swung from dry and methodical to bizarre to confrontational to dramatic in the best sense of courtroom theater.

There are three parts to closing arguments. The Defense must sandwich its last plea between initial arguments made by the Prosecution and a final rebuttal. Douglas County split the duties.

Leigh Ann Retelsdorf began almost apologetically. Because of the heavy weight of the forensic and scientific evidence she worried that the victim "…this 19 year old daughter, grand daughter…" at times had to be described coldly and clinically as "a blood source" or "point of impact."

It was Retelsdorf's job to weave together seven days of often complex and circumstantial evidence into an understandable picture. She compared it to a painting. Stand too close and all you see are individual brushstrokes. Stand back to take it in, and it all makes sense.

Step one was to prove Jessica O'Grady is dead. That remained the single biggest challenge. It is so difficult a task that it appears there has never been a successful trial conviction without a murder victim's body in the history of the Nebraska courts.

From the sudden silence of O'Grady's usually busy cell phone, to an abrupt end of any activity in her bank account, to leaving her beloved cat to fend for herself, it all added up to a young woman who had not left under her own terms, Retelsdorf explained.

The DNA tests done on two dozen samples taken from Edwards's bedroom, coupled with the obvious force with which the blood sprayed around the room supports their conclusion, she told the jury. "It is with absolute certainty that we can say Jessica is dead."

Step two was to prove Chris Edwards killed her. Retelsdorf used bits of pieces of testimony from witnesses supporting Edwards to finalize the case against him. How do we know O'Grady was with Edwards that night? Retelsdorf noted that when Edwards's other girlfriend, Michelle Wilken, described how she and other friends made arrangements to see him at home, she was also described the same pattern of exchanged cell phone calls used by O'Grady the night she disappeared.

Girlfriend Wilkin also testified "Chris was kind of a neat freak" so she wasn't surprised when he told her he had scrubbed the walls of his bedroom. Retelsdorf noted that the CSI team found "there is dust and dirt everywhere else in the room, expect on the two walls that were perfectly clean."

The house belongs to Edwards's Aunt Jane. Immediately prior to the closing statements she testified she'd never seen blood in the room before May 10th yet there was blood in the room after that day. She and her teenaged daughter both told the jury they heard no unusual sounds that night, and certainly nothing that hinted of a woman's violent homicide taking place in the basement. "The only logical conclusion is that she never had a chance to scream," the prosecutor told the jury.

One key piece of evidence got no challenge from the defense. White poster paint had been used to hide much of the blood on the bedroom ceiling. CSI lab tests showed the paint was identical to the type and brand purchased by Edwards the day after O'Grady disappeared. They had the receipt from Walgreen's to prove it.

The DNA indicating it was O'Grady's blood spread all over the room eliminates Chris Edwards's excuse to police that he "cut his wrist" and any inference from his defense attorneys that the bloodied mattress could be the result of his lovers menstrual cycle.

"Circumstantial evidence can prove death," Retelsdorf explained at one point. "Death can be proved other ways than having a body and having and autopsy. I challenged you to use your common sense."

The very first thing Defense attorney Steve Lefler did at the start of his closing argument was to lower the large screen used to view evidence so the jury had a clear line of sight to his client across the room.

Throughout the trial Lefler elected to challenge individual pieces of evidence rather than forming an alternate theory of the crime. There were no expert witnesses called to counter the blood spatter expert, the DNA laboratory results, the analysis of the CSI chemist, or the other investigators from the Douglas County Sheriff's crime lab.

Most of the defense witnesses limited testimony to calling Edwards "a peaceful individual" in the words of Lefler's carefully phrased question.

So Lefler used his closing to raise a series of questions and observations for the jury to consider. Among his most notable arguments:

- “There has not been one person in here who has said (Jessica O’Grady is dead. They have made an error in not calling a doctor to say she is dead. That error is fatal to there case.”
- “They were taking a cowardly way out asking you folks to (determine that she is dead).”
- “They don’t want you to talk about the holes in their case. You don’t just kill somebody (adding a snap of his finger). They have to prove this peaceful kid went nuts and killed this girl. Wouldn’t Michele Wilkins (who testified she still hopes to marry Edwards) say she doesn’t want anything to do with him? You could draw the conclusion she is either stupid or he actually a good guy. Those are two reasonable conclusions you could draw.”
- “Is it just as likely that Jessica O’Grady started a new life for herself? It’s the reason we entered those airline tickets into evidence (for a trip to Texas not taken 2 weeks before the disappearance). (Douglas County Sheriff’s) Deputy Tinsley testified Jessica was talking to this guy down in San Antonio. People disappear and then years later show up. If you can’t say you’re absolutely sure she will show up than they haven’t proved it beyond a reasonable doubt.”
- “Chris is some master mind killer because he hid the body, but he is stupid enough to leave fingerprints on the sword?”
- “The State has not given you enough information to put the phrase ‘convicted murderer’ next to Chris Edwards name.”

Lefler also challenged the work and credentials of the investigators called to testify by the prosecution. Earlier in the day Jane Edwards had said following the first search warrant she had cleaned her house to get rid of what she called “cop cooties.” The attorney made the point more than once that the investigators have the power to unfairly “bear down on a person” to make them break. In light of the two search warrants, Lefler said her comment is understandable “when somebody breaks into your house, trashes it, and then trashes it again.”

He reminded jurors that the police did not find the alleged murder weapon hidden in a closet until a second search warrant. He noted that months of police searching never located O’Grady. “They say he took this shovel and buried her. There have been searches all over eastern Nebraska.”

He belittled the testimony of blood spatter expert Stuart James, pointing out he did not have a doctorate degree or a masters. As for his long time affiliation with the National Association of Investigators, Lefler sniffed “I was going to ask Mr. James if I got a decoder ring if I sent in a $40 application.”

The massive odds of a positive DNA match with the blood found did not impress Lefler. Using a trembling, god-like voice, Lefler intoned, “’Oh great wizard of DNA we can’t challenge that!’ We’re just supposed to believe it. My contention is this is not Jessica O’Grady’s blood, or at least they have not proven it to a reasonable doubt.”

While not offering any expert evidence to challenge the work of the University of Nebraska Medical Center, Lefler felt there was reason for the jury to raise doubts. “Was the work of the DNA staff done with enough scientific rigor? I don’t think it was. I’m not saying that DNA technician was trying to frame Mr. Edwards, but I want you to view these things with a critical eye.”

There were points in Lefler’s arguments that left spectators clearly uneasy. At one point it was revealed Edwards’s computer was used to download a basic diagram of where arteries criss-cross the human body. “Is the reason they have it (in evidence) is to so you have a picture that Chris could do this?” At that point Lefler picks up the Bangkok fighting sword entered into evidence, and while consulting the artery diagram in his other hand begins mimicking poking a body with the tip of the sword. “Oh yeah there’s the right spot.”

Lefler repeatedly returned to speculation about the source of the large bloodstain on Chris Edwards’s mattress. “If Chris is a peaceful kid, might there be some other explanations? What else happens when a woman discharges the bed? I hate saying this with the press and everyone here, but has anyone used sex toys before? Has anyone ever done it doggy style? Use your judgment based on what happened in your life.”

He added later, “I don’t know what happened. Miscarriage? Abortion? Sex game gone wrong?” Sitting in the front row of the courtroom gallery, Douglas County Sheriff Tim Dunning shook his head in disgust at the references.

About half way through his closing arguments Lefler told the jury, “If I have done something to offend you please don’t take it out on my client.”

Anticipating (correctly as it turned out) a line that Prosecutor Don Kleine was to use in his final statement Lefler began to wrap up saying, “They will say you shouldn’t reward Chris Edwards because there is not a body. But he shouldn’t be punished for that either. Remember the presumption of innocence. We don’t have to prove anything to you.”

“I do think that when you consider both what is in evidence and what is not in evidence than the conclusion is inescapable. Chris Edwards is innocent.” With that Steve Lefler sat back down next to his client.

The Douglas County Prosecutor had the last word, and began by strongly challenging one of Steve Lefler’s most provocative challenges. “There is nothing cowardly about seeking justice for Jessica O’Grady,” Kleine stated straight to the jury.

Kleine reminded the jury, that in the absence of expert testimony from the Defense, they had little other support for any of the theories raised during cross-examinations. “Mr. Lefler was never under oath in this case. He is not a witness. He is not an expert in this case. His statements are not evidence. The defense is you cannot defend someone because you do not have a body. That’s their case.”

The conclusions made by the expert brought in to examine the blood spatter were not contradicted, Kleine reminded the jury. “You’ve seen the photos. There is blood all over that room. It’s everywhere! Does blood just fly like that? How did it happen?”

He added that O'Grady would have been "hit at least seven times with that object. It's there (in the crime scene photos) for you to look at. It takes force for that to happen." Kleine once again brandished the sword, this time lifting it over his head and bringing down in the same arc they contend lead to the seven or more blows that allegedly killed her.

Kleine concluded by attempting to turn the strongest argument on the defense side to the advantage of the prosecution. "We do not have Jessica O'Grady's body. We wish we did. Her family wishes we did. But Jessica O'Grady did testify through her blood."

"She testified by having her very life blood on the walls of that room, the ceiling, on the walls, on the headboard," he continued with the list pausing and adding additional emphasis on each item, "on the candle, on the TV, on the laundry baskets, on the sword on the mattress, on the towels. Think about it. This is all Jessica O'Grady's blood!"

"It's not just the blood on the mattress. It is the blood everywhere. And the most important evidence is the blood in the trunk of that car."

With a final nod to the fact that the jury could rule this to be manslaughter rather than 2nd Degree Murder, Don Kleine closed saying, "It is not an accident. It is an intentional killing. The evidence proves he is guilty and the law demands he be convicted."

After two weeks even something as serious as a murder trial can become more relaxed. The lawyers and spectators chat and even laugh at small jokes like at any function. The closing arguments snapped everyone back into the gray reality of what was being debated. Every single seat was filled. It was quiet enough that spectators up front could hear friends of Jessica O'Grady quietly sobbing in the back row.

The face of Chris Edward's father Robert, who has been alert and attentive throughout, appeared darker and sadder. At times he held two hands at once… those of both his current and ex-wife, Chris's mother. Throughout the prosecution's closing arguments, the stepmother kept her gaze down, focusing on the backs of the people seated in front of her. In the hallway afterwards, there were plenty of tears from people there to support both families in this tragedy.

I would describe how the jurors looked during the closing arguments, but it doesn't matter, because at 3:15 on Friday afternoon 12 total strangers filed into a cramped conference room behind the judge's bench to decide if Chris Edwards is telling the truth.

March 31, 2007

The Verdict

The following account, written by Todd Cooper, courts reporter for the Omaha World Herald, appeared in the paper's April 1, 2007 edition.

Fate sealed in blood Trial's focus on DNA left little doubt of guilt

His suit coat hung off his shoulders as if it were still on the wire hanger.

Gaunt and frail, either for effect or from the effect of jail, Christopher Edwards walked swiftly into Courtroom No. 8 to sit in judgment for the death of Jessica O'Grady. Shoulders slouched forward, he swiveled in his chair and smiled at his family -- his dark bushy eyebrows a sharp contrast to his almost bleachedwhite skin

At 5:10 p.m. Saturday, jury foreman Weldon Casey handed the verdict forms to the judge's bailiff. The bailiff handed them to Judge J Russell Derr

Derr glanced at them and passed them to Clerk John Friend.

The judge closed his eyes. O'Grady's aunt clutched a cross. Her mom, a Kleenex. Her best friends held each other's hands.

"We, the jury duly impaneled and sworn to well and truly try," Friend said, his voice rising, "do find the said defendant,” Friend's eyes searched down the form, "guilty of murder in the second degree . . . guilty of use of a deadly weapon."

O'Grady's best friends, Holly Stumme and Kari Peterson, exhaled and cried. Her mom, Rachelle, said a prayer. Her aunt, Shauna Stanzel, squeezed the cross in her palm.

And Edwards' grandmother wept.

After seven days of testimony and 11 hours of deliberations, the jury of five men and seven women finally said what crime scene photos, DNA results and the mattress had shouted all along:

Edwards, 20, slaughtered Jessica O'Grady in an attack so vicious and so violent that her blood formed an 8-square-foot stain on the mattress, sprayed onto the ceiling and flung 10 feet to a TV in the corner.

It was the first murder case prosecuted without a body in Douglas County -- but the crime scene evidence was grisly. So grisly that a television reporter asked afterward whether the family had considered that O'Grady's body might be in parts, to which Stanzel responded that she would take anything, even if it was just a piece of her niece.

This is the reality the family has faced in a case filled with cruel ironies.

This was the young woman who family members made sure got into a secured apartment -- door code, laundry on-site -- for fear that a stranger would do her harm. "Ultimately," Stanzel said, "it didn't make a damn bit of difference whether she had keyed entry or whatever."

This was the girl who couldn't stand to get her finger pricked. A blood draw with a needle? No way.

That's why Stanzel can't bear to think it, can't let her mind wander to what happened, what went through O'Grady's mind when Edwards raised that sword.

It's a thought that jurors, attorneys and gallery members were left to try to forget.

"I just hope she was asleep," Stanzel said. "Any thought, any feeling that someone would even consider doing this to her would have been just as devastating to her as the actual attack."

There are other thoughts the family has to wipe away. Edwards' attorney, Steve Lefler, brought up past boyfriends, questioned whether O'Grady ran away, even suggested that she might have tried to force a miscarriage.

Sitting in the gallery, Stanzel and Rachelle O'Grady would chew their gum and swallow hard. The most they ever did was glare, content with their memories of O'Grady's character

"We've never tried to portray Jessica as anything but a 19-year- old woman trying to make her way in the world," Stanzel said

Now they're a family trying to find that woman.

Through trial testimony and exhibits, O'Grady's family was reminded of the little things about the 19-year-old UNO student. Talk of her cat Zoe. Roommates testified that she doted on it like it was her baby. A photo of the Hyundai Accent she nicknamed Francene. She dubbed an earlier car, since wrecked, Betsy.

A crime scene photo of her softball glove, the one she used to help coach her aunt's softball team of 7- and 8-year-olds. Found in her abandoned car, the glove basically served as O'Grady's prop. What the girls really cared about was Jessica's spirit, the way she had painted their names on her purple shirt

Her phone number. On the stand, Stanzel choked up while reciting O'Grady's cell number. Those simple seven digits sparked memories of how O'Grady would call Stanzel all the time, seemingly for no reason

"It's those little things that I miss as much as anything," Stanzel said.

Edwards, on the other hand, was doomed by things big and small.

In the days after O'Grady disappeared, Michelle Wilken said she saw no change in her boyfriend. Except one day, she said, Edwards did mention that he was washing his walls. Asked by Lefler whether Edwards was a neat freak, Wilken testified he was not. "But when he cleans," she said, "he cleans really well."

Or not. Even though Edwards had a week's head start before detectives searched his house, investigators found O'Grady's blood in his car trunk

and on his sword, hedge shears, bookcase, clock radio, ceiling, candle, walls, mattress, headboard, laundry basket, sheets, towels.

Since viewing the "nightmarish" images of that blood, Stanzel said she has slept but not rested.

Jurors looked spent, too. When they first saw a photo of the bloody mattress, one gulped. Another, a college student and waitress, muttered "Oh my God" under her breath. After absorbing two weeks of trial and two days of deliberations, they filed out of the courthouse without commenting.

Around the corner, television cameras aimed at her, Stanzel noted the waste of it all. O'Grady is gone. And Edwards is gone to jail.

Verdict done, Edwards left the courtroom, his eyes and cheeks splotched with red.

His family called out as one: "We love you, Chris."

A woman hollered: "Don't forget God, sweetie."

With that, Edwards was off to the segregation unit at the Douglas County Jail. He traded his gray suit for an orange jumpsuit and will be on suicide watch, a precaution when any defendant faces a substantial sentence. The dinner waiting for him: a bologna sandwich, muffin and milk.

After watching his son depart the courtroom, Bob Edwards boarded an elevator. As the doors closed, he dropped his head and cried.

No one raises their kid to be a killer. Or a victim.

Earlier, Rachelle O'Grady had recalled when her daughter moved out of her house in high school, fed up with Rachelle's abusive boyfriend.

"You know how you sometimes learn lessons from your kids?" Rachelle said. "She refused to live in that situation. She taught me a lot."

Trying to hang onto those memories -- and not the dark ones -- the family hugged and cried and hugged some more. Huddled under the overhang of the courthouse, Stumme -- her braces a testament to just how young these friends were -- and Peterson wiped away tears. They talked about the relief they felt. "It's like you can breathe again," Stumme said. And the frustration: How can one person throw someone else away, Stumme asked, and never tell a soul?

Family and friends then scattered in the driving rain.

With justice, without Jessica.

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