

'Horrible man who did terrible things' gets 35 years

Written by BILL SCHANEN IV
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Judge, D.A. say man who sexually assaulted stepdaughter with help of wife must be locked up to protect others

He can't erase the sexual assault a 12-year-old girl endured at the hands of her stepfather while her mother watched, an Ozaukee County Circuit judge said Monday, but he can do the next best thing.

"I was hoping (the victim) would have been in court today," Judge Paul Malloy told the girl's stepfather. "I want her to understand we can't undo what happened to her, but we can make sure you can't hurt anyone again, and that's exactly what I am going to do."

Malloy sentenced the 45-year-old Fredonia man to 35 years in prison followed by 20 years of extended supervision, ensuring he will be behind bars or under the supervision of the Wisconsin Department of Corrections for the rest of his life.

The man, who Ozaukee Press is not naming to protect the identity of the victim, was convicted by a jury in February of first-degree sexual assault of a child and incest with a child by a stepparent. He was acquitted of child enticement.

During the trial, the girl testified that on April 1, 2013 — her stepfather's 44th birthday — her mother led her into the master bedroom of the family's Fredonia apartment where her stepfather was waiting.

"She (her mother) said, 'We're going to give your daddy a special birthday gift,'" the girl, now 13, told jurors. "I said, 'I don't want to, mommy,' but she said, 'Do this just for once.'"

The girl's mother, who testified against her husband during his trial, told jurors she was depressed and overworked and finally gave in to her husband's incessant requests to have sex with one of her daughters. She said she lay curled up on the bed with her husband and daughter until the assault was over.

"You were one of two people she had a right to expect would protect her," Malloy told the man during Monday's hearing. Instead, the two parental figures in her life "participated in an aggravated sexual assault of a 12-year-old."

The girl now lives with her biological father in Illinois.

Calling the girl's stepfather a "horrible man who did terrible things," District Attorney Adam Gerol recommended he be sentenced to 45 years in prison.

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Commenting on the severity of his recommendation, Gerol said the proposed sentence was not intended to punish the man for taking his case to trial and, in fact, was the same recommendation he offered to make if the man pleaded guilty to the charges.

"You can't explain this crime with something like a diagnosis of mental illness ... so you can't fashion a sentence to treat him," Gerol said.

The best the court can do, Gerol said, is lock the man up until he is too old to be a danger to anyone else.

Gerol said that while the girl's mother "has done terrible things as well," she has provided accurate insight into the life of the man who assaulted her daughter.

"We learned this is an angry man. This is a scary man. This is a man who drank substantial amounts of alcohol," Gerol said. "Finally it got to the point where he said, 'Today is the day you have to bring the girl to me.'

"Ultimately, he required this 12-year-old to be served up to him for his birthday."

Perry Lieuallen, the man's third attorney since his trial, called Gerol's recommendation a "death penalty" and argued the jury blamed the wrong person for the assault of the girl.

"The wife, the (girl's) mother, is the devil," Lieuallen said. "This is a horrible crime. This is a crime orchestrated by one person — his wife."

The man's wife, 37, is charged with felony counts of failure to protect a child from a sexual assault, first-degree sexual assault of a child and child enticement.

The woman initially pleaded not guilty by reason of mental illness, but dropped her insanity plea in favor of a not guilty plea after testifying against her husband. She is scheduled to appear in court next week to change her plea again.

When asked during Monday's hearing if he wanted to make a comment, the man sat silent, but Lieuallen said, "He missed his time. He should have testified at trial."

That was one of the arguments Lieuallen made last week during a hearing to determine whether his client — a man he described as a retired career Navy man who had never been in trouble with the law — deserved a new trial.

In addition to not understanding the implications of declining to testify during his trial, Lieuallen argued, the man was not informed by his previous lawyer that entering an insanity plea was an option.

Malloy rejected the request for a new trial, and at Monday's sentencing said he is convinced the victim was telling the truth when she said her stepfather assaulted her.

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"I know you say this didn't happen, but I've been around a lot," the judge said. "That little girl testified very bravely. She was shaking like a leaf.

"I think it happened, and you're going to be punished for it.