Conclusion of Watkins visitation hearing (originally published 10-07-10)

Aaron Tebrinke

For the Star-Gazette

The hearing for grandparents visitation rights for Sidney Watkins concluded on September 29, 2010. This was a rare trial in the Beardstown Lincoln Courtroom and the setting was appropriate for this important case that would determine the future of Sidney Watkins knowing her grandparents.

Dale and Penny Watkins were seeking the right to visit Sidney and her mother would not allow them to see her. The law is usually on the side of the mother in this type of case, but the mother in this case is Jennifer Watkins and her husband Steven was killed while attempting to visit Sidney on a court ordered visitation.

This case was an emotional one that tested the grandparents visitation statute that gives the parent(s) the sole right to choose if the grandparents have any role in the life of the child when a visitation situation occurs.

Jennifer Watkins attorney questioned the expert witness Dr. Osgood, a qualified clinical psychologist with her PHD from the University of Illinois at Champaign-Urbana. She testified about her psychiatric evaluation of Sidney Watkins concerning the grandparents visitation fight. Jennifer was interviewed with her daughter Sidney. The evaluation of Sidney was that she was developmentally an on-target child.

During the individual interviews with Jennifer she exposed the nature of the family conflict circumstances. "She (Jennifer) stated that she was opposed to the visitation because they (Dale and Penny Watkins) were 'trying to hurt her." Jennifer went on to claim that Penny had only seen Sidney a few times and there really was no relationship.

When Dale and Penny Watkins were interviewed by Dr. Osgood, they discussed their desire to meet Sidney. "My impression was that they were sincere, they wanted to be a part of her life. Both sides were giving different views of why there was conflict." The Doctor stated that Dale and Penny claimed, "Jennifer interfered and blocked their relationship".

Describing the visits, the doctor found there was a constant amount of conflict and blame was placed on the other party and nothing could be resolved. " Visits were very stressful for Sidney. There would be fighting in front of her." Osgood stated, "Very young children can have behavior problems from age 3 on when primary caregivers are in conflict with each other. The child feels like there is no one there to protect them."

In graphic detail Dr. Osgood described that Jennifer claimed that there was sexual abuse (Steven) and that was found to be completely untrue by a detailed investigation by DCFS. In a series of psychiatric evaluations it was revealed that Jennifer did not have anxiety or depression and that Sidney's developmental assessment was positive.

It was the opinion of Dr. Osgood that Sidney did not have any vivid memories, attachments, or bond to Dale or Penny. In defense of Jennifer, Dr. Osgood stated, "I don't think she did anything malicious by not allowing the grandparents visitation. She has her best interests in mind; she's not out to hurt Sidney." Although almost everything in Dr. Michael Treigger's psychiatric report told an opposite view, Dr. Osgood did not sway from her opinion that the grandparents do not need to be in Sidney's life for healthy developmental growth.

After a short break Mr. Metnick started his cross-examination. When asked to describe Penny's interview, she acknowledged, "The grandmother had been a caregiver that is confident, and responsible. She was genuine in her effort to obtain multiple visitation rights."

Dr. Osgood recalled, "Jennifer says that Sidney has no memory of her father and she doesn't recognize his photo." The cognitive skills of a child at three years of age should be able to form memories as well.

Jennifer shook her head vigorously in disagreement with Dr. Osgood's opinion that the grandparents provided meals and diapers for the visits.

Two opposing stories were evident: Jennifer restricted contact to the grandparents vs. the grandparents were not interested in contact with the child.

A disturbing fact was brought to light that Jennifer made the unfounded sexual abuse allegation when the child was two weeks old. DCFS made a full investigation that proved that Jennifer had made up the charges because Steven had served her with divorce papers. "Someone who would deliberately lie to position themselves in a custody case is a very serious situation," said Dr. Osgood.

Steven testified at trial during the divorce proceeding before he was murdered. Mr. Metnick read the murdered man's words from line 22 of page 130 in the deposition to describe what "naked baby time" was. "The few times I was able to change the baby I would exercise her legs and sing to her." Metnick confidently stated, " Based on what Steven was saying, nothing was inappropriate.

Metnick went on to ask Osgood about the 'Mr. Potato-Head exercise' that she preformed on Sidney. Sidney was able to recognize the family unit of mother, father and daughter with three Mr. Potato-Head dolls. When asked to name the dolls with her family's corresponding names she was able to easily associate Jennifer as the mother and herself as the daughter, but she did not associate the daddy with a name. When she was shown a photo of her father she called him "Joshy" a friend of the family. "She called the daddy Joshy."

Steven was killed the day before he was going to get overnight visits. Dale and Penny were trying to work on a relationship with Sidney, but were not allowed. This put Sidney in a very stressful situation that would break any human's heart. The doctor reluctantly pleaded, "What I hope for is a civil relationship between all three." She explained further, " It would be easy for Penny to have Jennifer arrested, there is no working relationship. I think that she is trying to protect her (Sidney) from that conflict. The visits are very painful for Sidney."

When asked if there was anything similar that could lead to a resolution Osgood said, "There are two different sides. It has been a constant for them."

At 1:35 PM the Circuit Court reconvened and the courtroom audience was asked to leave as Alexandria made her testimony. Around 2PM Penny took the stand for questioning. Penny composed herself to the best of her ability when she was asked the deeply emotional questions.

"I was a little uncomfortable that Jennifer only knew him for two years, she didn't know him before high school," she said when Penny was asked about her feelings towards Jennifer. She continued to say that Jennifer had all of the control in telling Sidney about Steven's life. Penny acknowledged the conflicts and said that she never started a fight. She also acknowledged that a professional should be present when they are reintroduced to Sidney in a safe environment.

"Alex asks me 'tell me stories about what me and Dad did.' Sidney needs that. I want her to look back in her memories and say, 'grandma and I did that.'"

An exhibit (that was attempted to be brought into the case) was a thumb-drive containing several home movies that Steven put together to document the beginning of Sidney's life with him. Penny said it contained many photos that Sidney needs to see to learn about who her father was and to know that he loved her. The thumb-drive contained images of her birth, in a Halloween costume, her first Christmas, wedding photos, and early baby photos. One of the photos was of Sidney playing on Steven's stomach. Goldberg objected to exhibit 31 because he was not given access to the thumb-drive before the trial to examine the contents otherwise known as a discovery violation. Although the photos and home movies were not allowed to be entered as evidence for the trial the judge asked how Penny would introduce the images of Sidney's father to her if given the chance. "Sparingly at first," she said. "She needs to see the photos." Penny described an example of Alex and Sidney playing together saying, " They are sisters."

Penny smiled brightly for the first time during the entire trial when she talked about being "the good-time person" as her role of grandma. "I get to do all the spoiling. My husband's role is exactly the same."

When Goldberg asked Penny if she had ever changed Sidney's diaper she said, "I wasn't allowed to change diapers, put her down, or feed her." Goldberg continued to ask if she thought Jennifer was a good mother. Penny looked at Jennifer and said in a calm delivery, "I still respect that she was my son's wife. Jennifer thinks she is a good mother. She is not what I would consider a good mother."

Goldberg pressed further with more emotionally loaded questions asking, "When did you tell Alex the Skinner's killed your son?" Penny answered, "I told her the day after Steven was murdered."

At 3:45PM Mr. Metnick started his closing arguments.

"Great emotion, great arguments and unkind words have been in this case," he started. "The thing that comes to my mind in this trial is that there is undisputed evidence that Jennifer was the provocateur. These hostile situations were caused by Jennifer are being rewarded." Further he added, "Obviously there was discomfort the first couple of months. He boomed across the courtroom, " She makes a bogus, vile complaint about the most despicable form of child abuse."

The man who needed to drive a motorized scooter to get into the courtroom lifted his wiry frame out of his seat to literally stand for his clients with a noticeably painful effort. "Steven died in the most awful way. Jennifer was non-cooperative with police and investigators and non-cooperative in giving Alex's belongings back." He went on to say negative inferences can be drawn in a civil case and (Jennifer) offered no evidence to support any of her claims and no one came to her defense as a character witness. He noted that in the previous trials there was plenty documentation about Jennifer's dislike of Steven.

Offering a glimmer of hope, Metnick stated, " Alex is a lovely and precocious child who is ‘who she’ is because of Misty Dirkson, Steven and my clients."

It is appalling that Jennifer is being rewarded by making all the visitations decisions. With Steven's death, she gets to decide that they (Dale and Penny) aren't good enough. Jennifer will not allow visitation without any reason." He finished his remarks by noting that in addition to the testimony they heard, the community showed support for his clients through Facebook posts on the internet. At 4:06 he ended by leaving the stunning visual that Steven was killed in Sidney and Jennifer's presence and that Jennifer has been obstructive to the investigation and visitation from that moment.

Mr. Goldberg defended his client in his final closing arguments by saying that simply, the law is the law. He read (in detail) previous cases that proved that in situations similar to this case that the parent can decide if the grandparents are involved in the children's life. "Our system is based on laws. The criminal justice system and civil justice system are separated and need to be separated." His final statement was that this is a private matter, not the decision of the court. "This is Jennifer's decision."

The final arguments on behalf of the Watkins family were made by Ms. Nelson, stating that court cases that Goldberg were referencing had no relevance in the case whatsoever.

Seconds after the Watkin’s counsel's rebutting of Jennifer's council closing arguments, Cass County IL Circuit Judge Bob Hardwick, Jr. made the announcement that he had reached a decision.

“The law is no longer what is in the best interest of the grandchild, Sidney.”

He went on to say ”Each of the factors I have considered, so with that I have listened to the arguments of council, listened to testimonies by the other parties, experts, interested parties:...

A long motionless silence filled the room before he continued to speak.

“It is hard to believe that a case like this exists; this isn't a typical grandparents visitation case. Steven Watkins, as indicated, was murdered for doing exactly what Dale and Penny are trying to do today, which is visit Sidney Watkins.

We listened to (Dr.) Treigger, we listened to (Dr.) Osgood about what they heard from all the parties and they are exactly correct. They say that Penny's version is 180 degrees different from what Jennifer said. Each says the other is at fault. Each says the other is incorrect. My job is to look at the statute, follow the law, look over the facts and render a decision. I'll tell you that it is not pleasant position for me to be in. It's my job, so I'll have to do it.”

With a pained look that never appeared on his face during the entire course of the trial he continued after another suspenseful long pause.

“Who should I believe in a situation like this?”, he asked the courtroom. “Based upon the testimony I have heard, based upon the circumstances that I have heard, based upon the events that have transpired, I'm putting more credibility in Penny Watkins.”

Hardwick continued stating that Jennifer readily admits that she denies visits. She's made allegations of sex abuse as soon as the divorce was filed. That makes her actions suspect. DCFS investigates it, finds everything to be unfounded. Apparently the allegations of sexual abuse were occurring just after birth, but she doesn't file anything until a year later or so makes her more suspect. Her excuse as to why she denied visitation is because Dale couldn't smoke or drink. Dr. Trieger said he could fix that. Jennifer says, 'No, I'm just not going to let them visit.' We have testimony from Ed Skinner saying that the (Shirley Skinner) bond could be the difference of $100,000 vs.$500,000, all they wanted was visitation. Ed Skinner says, 'Jennifer blew up.' That's exactly what it says. Jennifer would rather her own grandmother sit in jail rather than give up some visitation. We have the order of protection against Jennifer. We have Jessica Philips's unconverted testimony that Jennifer admitted to lying to DCFS and she would do whatever she could to keep her kids. We've got the obituary that was put into evidence. There is no testimony from anybody that obituary, which now shows Sidney's same as Weston, was done by Jennifer Watkins. We do know that Jennifer is whom the family relied on in regard to the death of her grandfather. Did she have anything to do with it? I don't know. I wish I did

know. Mr. Cross yesterday did an excellent job of cross- examining Dr. Trieger establishing there was no evidence that Jennifer hasn't shown photos. There is no evidence that Sidney is depressed. There is no evidence that Jennifer is lying. There is no evidence that she is hurting Sidney. There is no evidence that she is trying to erase Steven from her life.

There is no evidence that is showing photos. There is no evidence that Jennifer is not lying. There is no evidence that this isn't hurting Sidney. There is no evidence that she is not trying to erase Steven from her life."

The judge moved his eyes directly towards Jennifer's face so that he was now speaking directly to her face. "Mr. Metnick said I can draw negative inferences. I do - I do draw negative inferences from the fact that that you did not testify, that you did not give your side of the story. I understand you did that and took the Fifth Amendment. I can draw negative inferences from that, and I am.

We see from the transcript from the trial in September 2008 that you denied visitation. Jennifer Watkins is calling the shots. November 25, 2008 where she knows, from the testimony that was heard from that hearing, that she sees her control slipping away. She could see her control slipping away, and that Steven Watkins is going to end up getting visitation, and then he was shot in the back of the head. Everybody in this room would like to know what's happened. But nobody knows because nobody is talking. Does that make everything you say, Jennifer, suspect? It does to me. Does it make denial of visitation unreasonable on your part? I think it does. Do I think there was relationship with Dale and Penny and Sidney? Yeah there was. You kept cutting that relationship down by not letting them have it."

"There is a presumption that a fit parent's action to the decisions regarding grandparents visitation are not lawful to the child's mental, physical and emotional health. Has that presumption been rebutted? It has. I think is has. There is an evil in you, Jennifer that I do not understand. There is an evil in you that has caused the problem that has got us here today. It's an evil that is going to harm this little girl unless Dale and Penny get some visitation." !Not a sound was heard by a single person in the courtroom. Not even a creak in the worn chairs that have been around since the Lincoln Almanac Trail.)

“Dr. Osgood is hopeful that the two of you will get along and be civil with each other both for the benefit for Sidney. I'm hopeful for world peace, but I am not naive enough to think it is going to happen. I am not naive enough to think from what I have seen here today that you are ever going to cooperate with Dale and Penny Watkins and give them some visitation for this child because I think in your narcissistic way that you want to be in control. You win this hearing you are in control. I'm absolutely convinced that is going to harm this little girl.”

“Dr.. Trieger said that they have something to offer and Dr. Osgood said that they were sincere. Sidney needs to know them. She needs to understand her father and I am absolutely convinced from all I have heard here today, and from this whole process, that it is not going to happen unless they get visitation.”

“Lastly, if they don't get visitation I'm convinced that her... I'm convinced that Sidney is going to have problems no matter what happens, but knowing her father through her grandparents will help her on some level.”

(At long last, the order was made.) “I order that Dale and Penny Watkins have rebutted the presumption in their favor. I will order visitation. Dr. Trieger told me the visitation should start as soon as possible and it did not need to be supervised. I know that Dr. Osgood said that it needed to be done some time in the future, but not right now. Jennifer, I think you sold Dr. Osgood a bill of goods.”

Judge Hardwick was equally quick to lay out the terms of the visitation so that the family could be re-introduced. “I'm going to order visitation to start out every Saturday for two hours; it's going to start this Saturday. The next three Saturdays will last six hours. Thereafter, Sidney will spend every other weekend with her grandparents.” He ordered day-long visits each year on the day after Christmas. He also ordered half-day visits on June 13th the day after ‘Sidney’s birthday. Sidney will also spend two consecutive weeks every August 1-15. The exchange of Sidney will take place every time at the Beardstown Police Department.

Hardwick's final thoughts were as follows: “I know the grandparents visitation statute is new and untested, I can't help but that think that the purpose, the candor of that act, is to give relief, to help kids out of situations just like we have here today. It's my ruling, and that's it.”

Goldberg asked the judge to hear him on an appeal, but was denied.

Jennifer had no comment for reporters.

Dale and Penny Watkins had their first visitation with three- year- old Sidney on Saturday, October 2nd. Sidney was taken by a court-appointed third party to the Watkins home in Chandlerville.