

Jackson case exposes prosecution pitfalls

SANTA MARIA, Calif. (AP) - Set aside Michael Jackson's wealth and celebrity, and his trial could be a textbook lesson — a study in the pitfalls prosecutors face in trying to make child-molestation charges stick. The credibility of the accuser and his family came under withering attack. Some of the children's testimony was inconsistent and muddled. And there was no DNA evidence, no smoking gun.

"Some prosecutors don't want to touch these cases with a 10-foot pole because they are so difficult," said Victor Vieth, director of child abuse centers at the Ameri-

can Prosecutors Research Institute in Alexandria, Va.

It's unclear how many of the thousands of molestation cases filed each year nationally end with jurors returning guilty verdicts; rough estimates run between 50 and 75 percent.

In California, more than 3,420 defendants were found guilty of various sex crimes against minors in 2003, a conviction rate above 74 percent, according to the state Department of Justice. However, the rate generally is lower in cases that depend heavily on the victim's word, Vieth said. That's partly because prosecutors not only

have to present a case against the alleged abuser, they must protect the accuser against defense counterattacks.

"The first question the jury is going to ask is 'Why would this child make up these allegations?'" said Leonard Levine, a prominent Los Angeles defense lawyer who has handled close to 100 child molestation cases. "And if you can give them a reason as a defense attorney, you're halfway there," Levine said.

Jackson's prosecutor, Santa Barbara County District Attorney Tom Sneddon, said molestation cases are hard to prove because they

often leave no physical evidence.

"They're far more difficult than murder cases. Murder cases you usually have a gun or a knife or blood or fingerprints or something," Sneddon said in an interview.

"I've tried cases where they never found the body. I've had two of those cases. And those cases were much easier to try than some of the child molestation cases I've had."

The Jackson case had factors that complicated the prosecutors' job, said Sneddon's deputy, Ron Zonen.

"This case became more difficult because we were dealing with a 13-year-old boy from East L.A. who was rather unsophisticated, who was against not just a celebrity but an international superstar," Zonen said.

The deep pockets that come with celebrity tipped the scales even more. Jackson was able to hire a top defense lawyer, Thomas Mesereau Jr., who dug up alleged scams involving the accuser's family to portray them as career con artists

who had been after the singer's money. Prosecutors were able to capitalize on an unusual California law to introduce old — and uncharged — molestation allegations against Jackson, but those accusations couldn't eclipse doubts about the family's credibility.

Sneddon and his team also couldn't produce any biological or medical evidence of abuse. Only 20 percent of cases involve such physical evidence, according to David Finkelhor, director of the Crimes against Children Research Center at the University of New Hampshire. As a result, many prosecutors are forced to build cases on testimony alone, a strategy made more risky when the witnesses are children, who can be rattled and have trouble recalling key details in court.

Concerns about flawed child testimony grew in the 1980s and '90s, after molestation cases such as the McMartin Preschool case in Los Angeles County, the Little Rascals case in North Carolina and the Margaret Kelly Michaels case in New

Jersey fell apart.

Interviewing techniques have since improved, and some jurors have become more forgiving of child testimony, partly because of the Catholic church sex abuse scandal and child abduction and murders that have drawn national attention, lawyers said.

However, none of that helped when the brother of Jackson's accuser testified and gave an account of the alleged molestation that differed from statements he made to sheriff's investigators. And the accuser himself initially couldn't recall telling a grand jury that Jackson said it was "natural" when the singer appeared nude in front of him and his brother.

"As a prosecutor, once you lose the credibility of your witness, you're done," said Larry Hardoon, former lead prosecutor in Massachusetts' infamous Fells Acres sex abuse case, which produced convictions but led to the discrediting of the interview techniques used by investigators.

"It's the end of the story," Hardoon said.

Slavery

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the company benefited from the free labor of more than 13,000 Africans in Louisiana. Like Wachovia, JPMorgan Chase & Co. did not disclose this information voluntarily. Reparations advocates are pleased that Wachovia made the disclosure, but are pressuring the company to go one step further and make a financial commitment towards reparations. For them, an announcement on their website and a letter of apology from their president is no comparison to the years of free labor they profited from.

"Reparations mean to repair the damage, and we believe we have to rebuild these communities," Tillman says. "Certainly, these companies cannot dictate how these communities are going to be rebuilt and put a few pennies in. Of course we don't knock Wachovia and JPMorgan because they did give some pennies."

After their announcement, JPMorgan Chase agreed to establish a \$5 million college scholarship program called Smart Louisiana. Wachovia did not return repeated telephone calls from the NNPA News Service.

According to a statement by Wachovia, "Through specific transactional records, the research company determined that the Georgia Railroad and Banking Company owned at least 162 slaves and the Bank of Charleston accepted at least 529 slaves as collateral on mortgaged properties or loans and subsequently acquired an undetermined number of these individuals when customers defaulted on their loans."

The Georgia Railroad and Banking Company was founded in 1833 to complete a railroad line between Augusta and other parts of

the state. The company relied on slave labor for the construction and maintenance of the railroad. The Bank of Charleston was founded in 1834. The company issued loans and mortgages and used slaves as collateral.

"On behalf of Wachovia Corporation, I apologize to all Americans, and especially to African-Americans and people of African descent," said Wachovia Chairman and CEO Ken Thompson in a statement.

"We know that we cannot change the past, and we can't make up for the wrongs of slavery... but we can learn from our past and begin a stronger dialogue about slavery and the experience of African-Americans in our country..."

Although Wachovia cannot change the past, many feel they can give more than words. Conrad Worrill, co-chair of Millions for Reparations, says: "This is not a victory. This is a tiny step in a big, big pond. As a matter of fact, it's a tiny step in a big ocean. What would make a victory for the reparations movement is when we win complete reparations. The victories have to come in larger pieces. This is just a little piece of the puzzle. It's an important step, but it's not a victory."

Worrill, chairman of the National Black United Fund, believes there are several things Wachovia can do.

"We don't want to be appeased. All these companies are skating around their responsibility — but one by one, they will be exposed. There are a number of strategies that Wachovia could [take part] in as a part of this revelation and the demands of the reparations movement — humanitarian, commerce, business, housing, community building, building institutions, partnerships, etc."

Winans

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"Introducing the Winans," in 1981 and became one of the most successful groups in gospel music.

Winans suffered a massive heart-attack in 1997 and doctors told the family he likely wouldn't survive, but he did and against the odds, resumed his recording career.

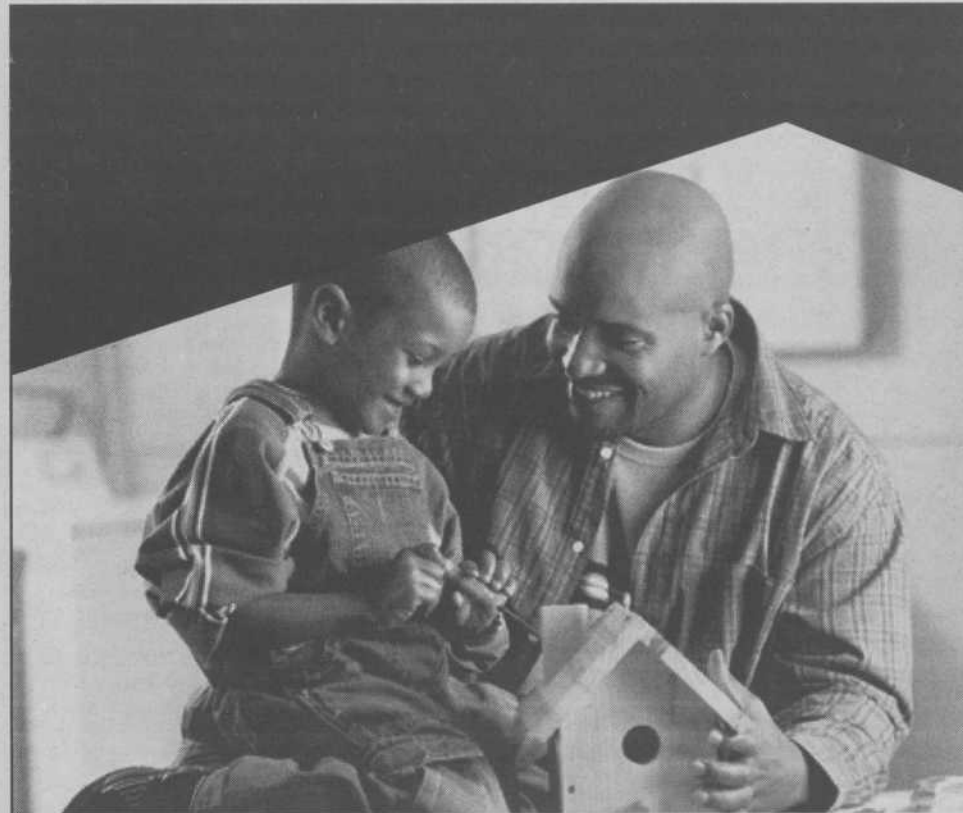
"Once I got back, I said 'Lord, if you are able to do that, I want everything back,'" he told Billboard earlier this year, "because they thought I was going to be a vegetable."

He survived and thrived. His most recent project was "Family & Friends 5: A Celebra-

tion," released in January on Entheos Records, a Detroit-based label founded by producer Doreonne Stramler.

The project was recorded last May in Detroit at Greater Grace Temple. The event was also taped as a DVD release.

"Ronald Winans is part of the history of gospel music," said Donnie McClurkin. "I got my start in recording through 'Ronald Winans Family & Friends,' in 1987. He was my brother, he was my friend and we'll all miss him very much. He went to heaven like a true saint of God with the biggest smile on his face."



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