

Blame in tot's death up to jury

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A Linn County jury will resume deliberations today, knowing with near certainty it has seen close up the person who shook and likely slammed little Rylee Gray into a coma that led to her death last Christmas Day.

That is the only thing near certain.

The prosecution says Matthew Lewis, on trial for first-degree murder, did it.

Lewis' attorneys say the injuries to 2-year-old Rylee as easily could have come at the hands of Rylee's mother, Elise Gray.

The jury has nine verdict options: from not guilty to guilty of first-degree murder or one of a series of seven less-serious charges.

Both Lewis, 23, of Cedar Rapids, and Gray, 22, now of Oxford Junction, testified in Lewis' week-long trial, both have denied harming Rylee, and both deny having seen the other harm her.

On different sides of the courtroom throughout the trial, both Lewis and Gray have had friends and family members from three generations looking on.

In closing arguments Monday afternoon, Lewis defense attorney Fae Hoover-Grinde told jurors not to let anger for the toddler's death force them to side against Lewis.

"You're not here to avenge the death of Rylee Gray," Hoover-Grinde told the jury. "Don't say, 'Someone did it. He's the one on trial. Somebody's got to pay for this little girl's death.'"

She also made vague mention of unanswered questions about an ex-boyfriend who did not appear at trial.

Prosecutor Todd Tripp told the jury that the case comes down to Lewis and Gray.

"It has to be one or the other, and there was only one opportunity," Tripp said.

Discordant testimony among medical experts during the trial centered on a finding crucial to the case: when was Rylee injured?

Tripp has tried to use expert testimony to show that the injury to Rylee was "hyperacute," and that it took place at most two hours before the first scans of her swelling brain were taken at 9:22 a.m. on Dec. 23. She arrived about 40 minutes earlier at the St. Luke's Hospital emergency room.

Hoover-Grinde, and defense colleague Duane Rohovit, have had medical experts, reviewing the same brain scans, testify they cannot conclude the injury to Rylee came around 7:30 a.m. or later.

Tripp is arguing that the injury occurred in a time span of 20 to 30 minutes around 8 a.m. Dec. 23 when Gray left her daughter and Lewis alone in his northeast Cedar Rapids apartment.

In any event, Gray was never alone with Rylee from 3 a.m. until 8:48 a.m., when Lewis and

Gray turned up at the hospital with the comatose toddler, Tripp noted.

Hoover-Grinde and Rohovit say the injury occurred before 3 a.m., when Rylee was in the care of her mother.

The defense attorneys particularly cite a feud between Lewis and Gray that sent Gray on a late-night car trip from 11 p.m. to 3 a.m. in search of an ex-boyfriend in Lost Nation.

Why, asked Hoover-Grinde, did Gray, upon returning to Lewis' apartment, sit in her car from five to 30 minutes before going back inside? Was she really thinking about her faltering relationship with Lewis as she testified? asked the attorney.

"Or had something happened to Rylee? Maybe she knew she (Rylee) was hurt and she didn't know what to do," Hoover-Grinde asked.

Tripp asked the jury not to shift its focus from Lewis simply because they might not approve of some of Gray's judgments, such as the late-night trip to Lost Nation or her decision in November 1994 to move Rylee in with Lewis after knowing him just two days.

Tripp cited Lewis' voluntary statement to police detectives at his arrest Dec. 28, in which Lewis said Rylee appeared fine when Gray returned with her at 3 a.m.

"You might not approve of her (Elise Gray's) parenting ... but Rylee Gray was fine when she came back at 3 a.m.." Tripp told jurors.

Hoover-Grinde reminded jurors how Lewis had elaborated on his statement to police when he testified. Rylee, the attorney said, appeared fine, but Lewis really only assumed she was. She was sleeping and in her winter coat at 3 a.m. when her mother took her upstairs and put her to bed, the defense attorney said.

Dr. Allan Ingenito, pediatric neurologist from the Minneapolis Clinic of Neurology, the final defense witness, testified Monday morning. Ingenito concluded that the progress of swelling in Rylee's brain indicated that the injury to her occurred six to 18 hours before her first brain scan at the hospital, or at the latest 3:22 a.m.

Ingenito, who estimated he has seen 20 patients a day in his 10 years of neurological practice, said "hyperacute" cases that result in very fast brain swelling are rare, perhaps 5 percent of the cases.

Prosecutor Tripp proceeded to call Ingenito "the \$5,000 man," referring to the fee, absent expenses, he charged for testifying. Tripp recalled the testimony of Dr. Loren Mowu, a Cedar Rapids neurosurgeon who treated Rylee, who cited a study that shows 25 percent, not 5 percent, of brain-injury cases are hyperacute.

Mowu, in turn, was much ridiculed by defense attorneys for offering differing sworn opinions in June, September and at trial. Each one pushed Rylee's injury occur closer and closer to the time she appeared at the hospital.

Caption: COLOR PHOTO
Matthew Lewis Accused of murder

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