

Jury acquits Francis of child abuse

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OGDEN -- A jury needed only an hour to acquit Jenny Francis on a charge of child abuse in an alleged Shaken Baby Syndrome case.

"You've seen the evidence and you know Jenny Francis did not shake that baby, she did not hurt that baby," defense attorney Edwin Wall said Friday afternoon as he began his closing argument to the jury, a statement that proved prophetic.

Francis had been charged with third-degree felony child abuse, not a second-degree felony as has been previously reported. The charges stemmed from an Oct. 12 incident after Madisen Porter, then 5 months old, showed injuries prosecution doctors labeled SBS while Francis was baby-sitting the child.

The jury apparently found the defense theory of the injuries more plausible, that a pre-existing and unknown subdural hematoma (a blood clot between the brain and the skull) began to bleed again spontaneously in the child.

Porter family members and friends watched glumly as Francis family members and friends jubilantly exited the Ogden 2nd District Courthouse Friday evening after the verdict.

The two families still live across the street from each other in Morgan. The trial was moved to Ogden to ensure an impartial jury since so many people in rural Morgan County, population 7,000-plus, were aware of the emotional case.

The jury's short deliberation after three days of tediously detailed medical testimony from both sides seemed to indicate jurors seized on the less complicated aspects of the case in making their decision.

Defense attorney Wall hit hard and often on the simple fact that Madisen Porter had no markings on her body such as bruising, scratches or grip marks

that would coincide with the rough handling the prosecution was alleging.

"The prosecution tells you the force it took to cause the injuries is equal to a fall from a two-story building," Wall told jurors. "But there are no marks.

"This is a common sense thing, it's not magic. The doctors and EMTs found no bruises, no grip marks, nothing, when they often expect to find broken ribs

in these cases. That just doesn't make sense."

The child has potentially untreatable developmental and eyesight problems because of her injuries, which include retinal hemorrhages and temporary swelling of the brain and paralysis.

During the trial, the jury heard more about the defense theory of a "rebleed" causing the damage to the child than they did on the mechanics of Shaken Baby Syndrome.

Wall, with an eminent neurologist, Dr. Ayub Chon Ommaya, a defense witness in the nationally-televised Louise Woodward "au pair" trial and who commands an \$850 an hour expert witness fee, put on a clinic complete with a brain model and whiteboard diagram-drawing.

Prosecutors belittled some of Ommaya's testimony, noting the

rebleed theory is not widely accepted by his contemporaries and that he is not a pediatrician.

"You heard him say his diagnosis is based on the fact Madisen was being irritable, fussy and had changes in eating and sleeping patterns that morning," Morgan County Attorney Kelly Wright told the jury.

"How many infants are irritable, fussy and have changes in eating and sleeping patterns?"

"If those are the symptoms

where you have to operate on a child for a subdural hematoma, our hospitals would be filled wall to wall with children."

"This is a man who hasn't treated a child in years," Assistant Attorney General Craig Barlow, who teamed with Wright on the case, said of Ommaya.

"The last time he treated a child in an abuse case was in 1961."

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