

## Jury awards \$3M to couple in wrongful rape accusation

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*(Photo: Susan Tusa, Detroit Free Press)*

### STORY HIGHLIGHTS

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- Lawsuit filed by parents of autistic girl took six years to go to trial.
  - Award brings to \$6.75 million the amount of money the family has recovered in case.
  - Prosecutors relied on facilitated communication to pursue rape charges.
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- Father spent 80 days in Oakland County Jail before case was dropped for lack of evidence.

A federal jury on Thursday awarded \$3 million in damages to a West Bloomfield couple wrongly accused of sexually assaulting their severely autistic and mute daughter.

The verdict brings the total amount awarded to Julian and Thal Wendrow to \$6.75 million. They were arrested in late 2007 after their then-14-year-old daughter reportedly typed on a keyboard — with the help of a teacher's aide in Walled Lake District Schools — that her father had raped her over the weekend while her mother looked the other way.

The typing, a controversial method known as facilitated communication, had been widely debunked in the last two decades. Research always found it was the aide guiding the disabled person's hand, either consciously or unconsciously.

Nevertheless, then-Oakland County Prosecutor David Gorcyca, his chief assistant, Deborah Carley, and assistant prosecutor Andrea Dean pressed on with the prosecution, even as news reports showed the method was unreliable.

Julian Wendrow, arrested in December 2007, spent 80 days in jail before prosecutors dropped the charges. Aislinn, their autistic daughter, and her brother, Ian, were placed in foster care for months before the case fell apart, when it was shown that the typing was a hoax and that the girl was not communicating at all.

Criminal defense attorneys representing the Wendrows at the time sought to test the method at a hearing in 48th District Court by asking the girl questions out of earshot of her facilitator. When they did, the girl couldn't answer a single question correctly. The lawyers used those non-answers as proof that the girl was incapable of communicating at all, much less typing out elaborate descriptions of assaults that were attributed to her using facilitated communication.

Other evidence also raised questions about the validity of the rape claims, including a physical examination of the girl, which showed her hymen was intact. The typed statements said the girl was coming forward because she feared going to hell for lying. But lawyers pointed out the Wendrows are Jewish and don't believe in the Christian concept of hell.

Ian, who received the largest part of the jury award, was interrogated for two hours by West Bloomfield police, who told him they had videotape of his father assaulting his sister. Police never had such a tape and the claim was a lie that a psychologist would later testify left the boy traumatized. Jurors did watch a video showing Ian's interrogation, in which the boy, then 13, doubled over in tears.

The case drew national attention including a six-part Free Press series in 2011 and an hour-long segment on ABC's "20/20" program.

Jurors awarded \$2 million to Ian, saying then-chief assistant prosecutor Carley violated his constitutional rights. Carley now heads the Children and Youth Services Division for the Michigan Attorney General's Office.

The jury also awarded each Wendrow family member \$250,000 against Gorcyca, saying he defamed the family when he insisted months after he left office, and a year after the case was dropped, that the Wendrows were guilty of abusing their daughter.

Gorcyca, who left office in 2008 and now works as a defense attorney, defended his conduct and that of his former colleagues.

"I certainly think something happened," Gorcyca testified last week in U.S. District Court in Ann Arbor. "I believe some sort of sexual abuse occurred."

Deborah Gordon, who represented the Wendrows throughout the suit, said the verdict shows what really happened.

"We are very pleased with the message this sends to the community," Gordon said. "These defendants were reckless and caused this family enormous harm. And now this family has had its day in court."

Thal Wendrow, who spent several days in jail following her arrest, and months on electronic tether confined to the family home and unable to reach out to her children in foster care institutions, said the family finally had a chance to tell its story.

"Finally, our story has been heard," she said, as she and her family celebrated Thursday night. Her son, Ian, was not in the courtroom, instead in classes at Michigan State University. Her daughter was at home with Thal's mother.

The verdict gives a chance for the family to move forward, she said.

"We needed a jury, people in our community to hear what happened here. It was never about the money. It was about this injustice, and about making sure that people who are in power don't do this kind of thing to another family."

The defendants' attorney, Steve Potter, who had argued that the Wendrows brought their troubles on themselves by advocating facilitated communication for their daughter and that prosecutors had acted "in good faith" in trying to protect a possible victim of sexual abuse, could not be reached for comment Thursday.

The six women and two men on the jury declined to speak to attorneys following the verdict. They deliberated for a little more than a day before arriving at a verdict. The Wendrow family had sought \$23 million in damages.

The other defendants, West Bloomfield Police, the Walled Lake School District and the State of Michigan, which allowed social workers to remove the children from the home, settled out of court for \$3.75 million.

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