

# Expert: Killer not a threat

murder 3Jmn 8-28-02  
WITNESS SEES NO SIGN OF DANGER

By David L. Beck  
Mercury News

A defense psychologist said Tuesday that whatever his other faults, Donald Schmidt, who is on trial seeking his freedom after 13 years as a ward of the California Youth Authority, is not dangerous.

And whether Schmidt is too dangerous to release from the California Youth Authority is the sole question before the Santa Cruz jury that will hear Schmidt's testimony today.

Schmidt, 30, has been in CYA custody since his 1989 ju-

venile conviction for murdering and sodomizing a small child. Now believed to be the oldest CYA ward ever, he has been most recently housed at the Heman G. Stark Youth Facility in Chino, which is for offenders ages 18 to 25.

This is Schmidt's third attempt to win release. Twice before, the youth authority, acting through the district attorney, succeeded in keeping him in custody. Should Schmidt lose again this time,

See **RELEASE**, Page 4B



**Schmidt**

Was 16 when he killed girl in 1989, and is making his third bid for release from state custody.

4B WWW.BAYAREA.COM

## RELEASE | Psychologist says killer is not dangerous

Continued from Page 1B

the two-year extension of his commitment would begin from the date of Judge John Salazar's pronouncement of the verdict. It has been three years since his last trial, counting the year he has spent in Santa Cruz County Jail awaiting these proceedings.

Psychologist John Podboy answered questions Tuesday from defense attorney William Weigel about the tests he administered to Schmidt, and from prosecutor Ariadne Symons about the long record of psychological evaluations of Schmidt has piled up over the years.

Podboy called Schmidt's bathtub murder of Marihia Silvola, 3, an act of sexual sadism. He dismissed as "nonsense" claims by Schmidt, who grew up in Fremont, that he murdered because he was under stress arising from his dysfunctional childhood.

He said the sexual fantasies that must have preceded Schmidt's act of murder "could still be there. I have no way of knowing. ... We don't know what his fantasy life is like, and there's really not a

good, ethical way to get at it."

He could talk about it, suggested Symons.

"He could talk about it," Podboy agreed. "But he's very gun-shy" about his homosexual activities while in the youth authority, and he denies the pederasty with which he has been diagnosed.

"Normal males," the defense psychologist said, "even in adolescent years, are never, ever aroused by ... children."

Nevertheless, he said, Schmidt's record in the youth authority since he began actively participating in his therapy about 1996 has been free of violations and full of plaudits — "kudos," said Podboy — for his progress.

Over and over, Podboy answered "yes" or "that's correct" to questions designed to show that Schmidt attempted to deceive his counselors, girlfriends and boyfriends and manipulated the system.

But those faults "don't equate to danger," Podboy said. They don't mean "that Mr. Schmidt is going to go out and hurt someone. I don't have any evidence of that."

Before he could testify about Schmidt Tuesday, the Sono-

ma-based psychologist had to defend his own record.

He was offered by Weigel as an expert witness, but Symons questioned him closely about his résumé, his doctorate, his work record with the California Department of Mental Health, the date of his license, and more, even wondering aloud how he could have worked on his doctorate at the University of Arizona in Tucson in the early '70s while working full-time as a parole officer in Eagle Rock, near Los Angeles, as his résumé showed.

When she returned to those issues at the end of her long cross-examination, he accused her of accusing him of perjury, and insisted he would fax copies of his contracts with the state to prove he was not fudging the dates on his résumé.

At Schmidt's 1999 trial, Symons dynamited a defense expert named Stan Blondek so thoroughly that the judge called a mistrial and his employer, the California Youth Authority, fired him.

Contact David L. Beck at  
dbeck@sjmercury.com or at  
(831) 423-0960.